



# **NAVAL POSTGRADUATE SCHOOL**

**MONTEREY, CALIFORNIA**

## **THESIS**

**COMBATING HUMAN TRAFFICKING: EVOLUTION OF  
STATE LEGISLATION AND THE POLICIES OF THE  
UNITED KINGDOM AND FRANCE**

by

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LEGISLATION AND THE POLICIES OF THE UNITED KINGDOM AND  
FRANCE**

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## **ABSTRACT**

Human trafficking is a transnational issue that violates human rights and is increasingly associated with organized crime. Since the turn of the century and the passing of the United Nations Palermo Convention Protocols, combating human trafficking has required a coordinated and cooperative effort between local, regional, state, and international institutions. By studying the evolution of legislation and policies of the United Kingdom and France, a more detailed look is presented on how their efforts have positively contributed to the combat of human trafficking. Ultimately, their efforts have combined two approaches: 1) Human rights based approach that reflects the protection of victims and the human rights issues involved with human trafficking. 2) An approach that reflects the criminal nature of human trafficking and its association with organized crime. The convergence of these two approaches to combat human trafficking is also represented in the multitude of European security institutions and the role that both the United Kingdom and France have played in those institutions.

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

BiH	Bosnia and Herzegovina
CNDCH or NCCHR	French National Consultative commission on Human Rights
DCJP	Central Directorate of the Judicial Police
ECPAT	End Child Prostitution And Trafficking
EU	European Union
EURPOL	European Police Office
HMCE	Her Majesty's Customs and Excise
IGC	Intergovernmental Conference
ILO	International Labour Organization
INTERPOL	International Criminal Police Organization
IOM	International Organization for Migration
NATO	North Atlantic Treaty Organization
NCIS	National Criminal Intelligence Service
NGO	Non-governmental Organization
OCRTEH	Central Office on the Treatment of Human Beings
OSCE	Organization for Security and Cooperation in Europe
TiHB	Trafficking in Human Beings
TiP	Trafficking in Persons
UKHTC	United Kingdom Human Trafficking Guide
UN	United Nations
UNODC	United Nations Office on Drugs and Crime

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# **I. INTRODUCTION**

## **A. MAJOR RESEARCH QUESTION**

This thesis will look at the evolution of legislation and policies for combating human trafficking within the United Kingdom and France and how these countries have impacted the development of policy of the major security institutions of Europe over the past two decades. Human trafficking has gained recognition as a transnational problem. With this recognition, the functional need to address the various causes and consequences of human trafficking effectively, efficiently, and justly, as well as institutional and ideological dynamics, have led to the incremental creation of a complex security governance system against human trafficking.<sup>1</sup> The goal is to explore the creation of this governance system in the United Kingdom and France and create a narrative that defines and explains the growth of legislation and policy in the combating of human trafficking, especially in relation to organized crime, based on their historical precedence for combating security problems and protecting human rights.

This thesis should help address and answer the following questions:

How have the United Kingdom and France balanced combating human trafficking as a human rights violation and as a security threat with close ties to organized crime? How have their laws and policies evolved over the past two decades to combat human trafficking, maintaining the balance of protection of human rights and policing organized crime associated with human trafficking?

## **B. IMPORTANCE**

Human trafficking is a manifestation of a transnational social crisis that has grown stronger because of the instability and weakness of source countries and the demand produced by the economically stronger countries of Western Europe. The development of a stable, democratic and law-governed Europe is determined by the ability of the weaker source countries to grow economically and to cultivate democracy and the rule of

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<sup>1</sup> Cornelius Friesendorf, "Pathologies of security governance: Efforts against human trafficking in Europe," *Security Dialogue* 38 (3) (SEP) (2007): 379–402.

law. Human trafficking, along with its blatant violations of human rights, is providing criminal organizations with a new means of finances by exploiting human beings and forcing them to participate in activities, such as prostitution, that are negatively affecting Western Europe. Multilateral, intergovernmental, and inter-institutional cooperation is required to help fight this problem that is seen as both a human rights issue and a state security problem. This research will help define human trafficking as a human rights issue and explain its connection with organized criminal networks, discuss the origins and evolution of legislation with regards to human trafficking within the United Kingdom and France, and examine the roles of the major European security institutions in combating human trafficking and how their policies have evolved.

There are multiple layers designed to help combat human trafficking. These layers include the following areas: legislation, policing, border control, education, economic policies, and military intervention. By examining these levels and the causal mechanisms that have led to their evolution, a better light will be shed on the legislative and institutional growth of combating human trafficking and a possible reflection of how these policies will continue to grow.

### **C. PROBLEMS AND HYPOTHESES**

Human trafficking, once considered a human rights issue only, has become a threat to security and stability of Europe. States, such as the United Kingdom and France, have passed legislation to combat and control the problem of human trafficking with both human rights and organized crime as the catalyst. Concurrently, international institutions have recognized the problem and produced their own policies. As the threat of human trafficking increased throughout the 1990s and into the new millennium, a greater need for improvements of international anti-trafficking efforts has been realized. Improvements in these efforts are still needed but major steps have been taken since the first legislation was passed years ago.

Over the course of the Twentieth Century, the United Kingdom and France were major players in the abolishment of slavery due to its inhumane practices and violations of human rights. In the early 1990s, human trafficking was addressed as a form of

modern slavery and its violations of human rights began to be discussed. The existence of legislation produced to combat slavery has presented problems in combating human trafficking, even though human trafficking was labeled as a modern-day slavery practice. Prior to the turn of the 21st Century, there was little international agreement upon what was considered slavery and what practices constituted human trafficking. The second problem that existed was of the measures that should be adopted to help prevent human trafficking.<sup>2</sup>

The Palermo Convention in 2000, and the United States Trafficking in Persons Report of 2001 have helped to further define human trafficking and “modern slavery” and have marked a major turning point in the definition, prevention, and prosecution of human trafficking. Before these two events, international coordination was uncoordinated in its efforts to attempt to control the increasing problem of human trafficking. The Palermo Convention and TIP report have helped to bring the international community together in the recognition of human trafficking and the combating of human trafficking.

Cooperation and coordination between state actors and international organizations is an important step in developing a successful campaign to combat human trafficking. Further transnational cooperation will be needed to help eradicate this growing problem. Many steps have been taken to correctly address the problem of human trafficking. By showing the benefit of these actions, I hope to support the success that can be attained by continuing the process that has already begun in combating human trafficking. The Palermo Convention was a major step toward helping define human trafficking as a global problem and putting all institutions on the same page in the struggle against human trafficking. International cooperation on anti-trafficking and an increase in categorizing trafficking with organized crime fighting efforts has increased the effectiveness of anti-trafficking efforts.

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<sup>2</sup> Tiziana Luise. “Are human rights becoming burdensome for our economies? The role of slavery-like practices in the development of world economics and in the context of modern society,” *Rivista Internazionale Di Scienze Sociali*, 113(3), (2005): 459–475.

Within the United Kingdom, the expectation is that their policies have become more centralized and they have increased their presence in international agreements. In France, although they are extremely active in multilateral and international institutions, they will have to evolve a police force and victim protection program that is not as highly centralized to combat human trafficking nationally.

#### **D. LITERATURE REVIEW**

Human trafficking has emerged as a transnational problem and there is a greater tendency of human trafficking being connected with organized criminal networks. As Luise points out, “the opportunities for criminals to organize the supply of illegal migration are on the increase.”<sup>3</sup> Human trafficking provides criminal networks with the means to increase production in drug trade, prostitution and forced labor, thus increasing their overall revenue. Luise quotes a United Nations report claiming that human trafficking is now at least a \$9 billion dollar a year industry.<sup>4</sup>

Letizia Paoli points out that “far-reaching legal and institutional reforms have been passed in all European states and *ad hoc* instruments have been adopted by all major international organizations, ranging from the European Union to the Council of Europe and the United Nations”<sup>5</sup> to help control organized crime since the late 1980s. Although Paoli’s collection of essays follows the development of legislation across Europe in regards to organized crime, human trafficking remains a major part of the legislation that was passed and needs to be identified. The lack of focus of legislation in regards to human trafficking in her book provides an opening for more research to be done. She even identifies as much, stating that her goal is not to “provide a conclusive assessment of either the history of organized crime or its contemporary manifestations and control policies, but merely to open up new research paths.”<sup>6</sup> It is important to use this

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<sup>3</sup> Luise, 470.

<sup>4</sup> Ibid., 473.

<sup>5</sup> Cyrille Fijnaut and Letizia Paoli. *Organised crime in Europe: concepts, patterns, and control policies in the European Union and beyond* (The Netherlands: Springer, 2004), 1

<sup>6</sup> Fijnaut and Paoli, 13.

collection of works to help research information in regards to some legislation that mentions human trafficking and the background that the legislation was introduced upon.

Wolfgang Benedek discusses the investments that have been made by European institutions into the Western Balkans and how many of these investments have failed or not reached their desired intent “because of organized crime, terrorism and corruption that jeopardize the transition of these post-conflict societies and the peace-building process”<sup>7</sup> Although his project discusses human security and the role of organized crime within the Balkans, he does not fully cover human trafficking. Within his introduction, he discusses the prominence that human trafficking has in regards to being a topic in different conferences and workshops. To discuss the issue further, he directs the reader to an Internet based journal that contains several different publications, articles, and working papers. It was here that I was able to access publications that discuss human trafficking in the Balkans and the human security framework that has been/is being established. In Amel Fako’s piece, the following argument about human trafficking in Bosnia and Herzegovina and its priority on the international stage is discussed:

Neither the international community nor local institutions viewed the fight against trafficking in human beings as a priority for their agenda. It took a few years and several NGO reports and media articles in their home countries to direct their attention to the matter. The problem was first addressed in 1998 on the initiative of international organizations and local non -governmental organizations. It was then put on the agenda for the first time of a conference organized by the Council of Europe in cooperation with the UNHCHR in Tuzla (16–17 December 1998). Recommendations issued stressed the necessity to undertake a thorough analysis of the extent of the problem, to initiate legislative reforms and to set up a steering group which would draft an action plan for combating trafficking.<sup>8</sup>

By perusing the NGO reports and media articles of the 1990s, I will be able to further delineate the timeline and evolution of the legislation that is presented throughout

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<sup>7</sup> Wolfgang Benedek, *Transnational terrorism, organized crime and peace-building: Human security in the Western Balkans*, (New York: Palgrave Macmillan, 2010), xvii

<sup>8</sup> Amel Fako. The Role of External Actors in the Fight against Trafficking in Persons in Bosnia and Herzegovina. accessed via [http://www.humsec.eu/cms/fileadmin/user\\_upload/humsec/Workin\\_Paper\\_Series/WP\\_Fako.pdf](http://www.humsec.eu/cms/fileadmin/user_upload/humsec/Workin_Paper_Series/WP_Fako.pdf) on 02 June 2011.

the United Kingdom and France, along with those of the international institutions in Europe. Within BiH, Fako discusses further the international organizations involved in establishing the security framework for combating human trafficking and how that framework has evolved. The roles of the European Union, NATO, the Organization for Security and Co-operation, and the United Nations are just some of the institutions discussed within BiH and their fight against human trafficking.

While researching human trafficking and the development of a legal framework to fight it, one person often quoted is Cornelius Friesendorf. Several of his articles have provided an excellent source of material in my research. It is logical that a majority of his focus lies within Southeastern Europe, an area that is generally agreed upon as a region of origin and destination and the European Union (EU), a major area for final destination of trafficked persons. As human trafficking has become a greater priority starting in the early 1990s and picking up steam in the late 1990s, many more actors have come to the table to join the fight against human trafficking. Examining the combat against human trafficking in the latter part of the 2000s, Friesendorf argues that a “successful security governance against human trafficking depends on intense transnational cooperation among specialized state agencies, and on the participation of international organizations, NGOs, and private businesses in policymaking and implementation.”<sup>9</sup> This successful security governance can be seen as the end game of the last twenty years of efforts by many organizations and institutions. Developing the information to survey how this idea of “intense transnational cooperation” came to be the end state of combating human trafficking is very important.

Besides the multitude of articles and publications that I have not listed here, there are a few important institutional reports that are important in defining the development of the legal framework against human trafficking. Items such as the Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA by the European Commission and the Stockholm Programme help to

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<sup>9</sup> Friesendorf, 386.

explain how the European Union has developed their policies on combating human trafficking. In 2005, the Council of Europe Convention on Action against Trafficking in Human Beings is important to discuss the means in which they consider useful for the combating of human trafficking and the limits to which they can do so.

## **E. METHODS AND SOURCES**

The evolution of legislation within Europe for combating human trafficking is obviously best looked at chronologically. I intend for this to be a survey of the legislation that has been produced and how that legislation has evolved over the course of approximately the last two decades within the United Kingdom and France. My timeframe will begin in the late 1980s and continue through the present, most notably including information from the latest U.S. TIP report and from a newly published book by Georgios Papanicolaou: *Transnational Policing and Sex Trafficking in SE Europe*.

As mentioned previously, the United States reports on Trafficking in Persons (produced each year since 2001) provides an excellent outline to determine individual state efforts at combating human trafficking. These reports rank countries based on their efforts to fight human trafficking into three tiers. These tiers are based on the compliance of a government with the Trafficking Victims Protection Act (TVPA) of 2000.<sup>10</sup> Since these are produced yearly, I am able to look at the progression of each country of the past 11 years in their development of legislation and compliance with the TPVA. My focus will remain on the United Kingdom and France case studies.

It is obvious that the main source of the development of human trafficking information in the 1990s and the backdrop to legislation development against human trafficking will come from old news articles and media. This research will help in my efforts to layout the path of development of institutional policies and legislation against human trafficking and the actors that influenced these decisions.

Government and non-government reports throughout the 1990s and the 2000s will also be important in my research. Some that I have already identified are the United

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<sup>10</sup> U.S. State Department, (2011). *2011 trafficking in persons report* (Report No. 11). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2011/164228.htm>



States State Department reports on human trafficking and the United Nations Palermo Protocol. Others that I will use are the United Kingdom's Human Trafficking Centre website and the UK's parliament reports on human trafficking. Institutions such as INTERPOL, the European Union, OSCE and EUROPOL maintain websites that are helpful in creating a timeline of efforts to create or adjust policy for combating human trafficking.

I view the turning point in this study as the introduction of the Palermo Protocol and the U.S. State Department TIP report in 2000 and 2001 respectively. By viewing the evolution of legislation and institutional practices before and after this turning point, I plan to show how the merging of international efforts in combating human trafficking came to fruition and analysis the benefits of transnational efforts to combat human trafficking.

This thesis will trace out the evolution of legislation from domestic policies to policies of international cooperation using a causal narrative of the case studies of the United Kingdom and France. By explicitly tracing out this evolution, my goal is to show the events and ideas that led to the Palermo Convention and the increased international cooperation to combat human trafficking over the past 20 years.

To understand the evolution of policy within Europe, I am analyzing the policies of the United Kingdom and France. There are several reasons for doing so. The first reason is because both nations have a strong voice within the European and international community. The second reason is because of their long standing history in combating human rights violations to include their efforts in the abolishment of slavery. A third reason is the ability to compare and contrast their policy decisions based on geography and also the centralization or decentralization of their national institutions. France represents the majority of the European countries that share multiple borders and is not isolated geographically like the United Kingdom. The United Kingdom is traditionally a more decentralized state than France and the development of policing coordination and cooperation compared between the two is an interesting topic. France has a long history of using multilateral and bilateral cooperation and agreements to identify and solve issues inside and outside of its borders, which will be compared and contrasted to the United

Kingdom. A final reason and a decidedly selfish one at that, for choosing the United Kingdom is the availability of information provided in English text and the ease of research that this provides.

## **F. THESIS OVERVIEW**

Chapter II addresses the definition of human trafficking and how distinguishing it from illegal immigration and human smuggling helps delineate the differences between the three and the importance of separating the laws that are enacted to control them. This chapter will not only define human trafficking but it will also discuss the impact of the Cold War and dissolution of Yugoslavia to the contribution of human trafficking. The Palermo Convention has provided the international community with a definition of human trafficking ensuring less confusion on state interpretation. The final portion of this chapter will discuss the transition of human trafficking as a human rights violation to its inclusion of being treated as a partner to organized crime.

Chapter III discusses how the United Kingdom has traditionally developed polices, policing, and legislation in a much more decentralized manner when compared to other European countries, especially France. These differences in centralization and decentralization make for an interesting comparison of techniques that have been used to combat human trafficking. The common link for both is their commitment to the abolishment of human rights violations and their excellent history in combating these violations. This chapter also discusses the United Kingdom's history in abolishing slavery during the nineteenth and twentieth centuries and compares its idea of the "white man's burden" to what is today being called modern slavery.

During the 1990s, issues and violations stemming from human trafficking began to be recognized by NGOs and state actors. These issues led to the affirmation of human trafficking as a human rights violation within the United Kingdom and actions to curtail these violations emerged. Many of the actions were taken independent of and before the recommendations of international institutions within Europe. After the Palermo Convention in 2000, an increased effort in inter-state cooperation arose and a greater effort to centralize police intelligence and operations. The timeline of the United

Kingdom's evolution of policies and legislation will help provide the information to compare their practices with those of France.

Chapter IV discusses the evolution of France's practices to combat human trafficking. Much like the United Kingdom, France portrays its exemplary efforts in the protection of human rights throughout her history. Unlike the United Kingdom, France is a very centralized state and its policies and legislation to address human rights violations reflect that. Another striking comparison of the two countries is their use of multilateral institutions and bilateral arrangements to address issues. France is more willing and more likely to use international agreements and international forums to help against her own problems. France's chronology and evaluation of human trafficking practices will provide the information to compare the differences and similarities in combating human trafficking between them and the United Kingdom. The Palermo Convention was a critical junction for France because of the international implications that it provided and its ability to use it to their advantage.

It is not a goal to limit the tendency of the United Kingdom to be involved in international institutions but to say that France's standards are more leaning to the involvement of those institutions for its own services. These tendencies should be considered a spectrum of use in which it will be argued that France is located at a different region on that spectrum than the United Kingdom is.

Chapter V addresses the policies of the European security institutions (OSCE, the EU, NATO, and the Council of Europe) and assumes the heavy influence that both the United Kingdom and France project within these institutions. With this in mind, the institutions of Europe can be determined to reflect the will of the of the United Kingdom and French governments. Although the bulk of this thesis is dealing with the comparison of the United Kingdom and France, it is important to see the simultaneous advances of the security institutions that are located in Europe under the auspice of transnational institutions. In dealing with human trafficking, the greatest efforts started in the late 1990s and increased in effort after the turn of the century. The success of these institutions is dependent upon the willingness of state institutions to accept their guidance and collaboration of their efforts. It is also important to discuss the need for these

institutions in combating a problem that is increasingly seen as transnational and out of the reach of governments that prefer to work independently or not as multilateral as may be needed.

Chapter VI concludes the analysis of combating human trafficking and discusses the importance of a convergence of approaches to the combat and security governance of human trafficking. There are indications in the United Kingdom, France, and the European security institutions that certain practices or policies have not been as effective as needed. Since human trafficking has increasingly become a transnational problem, connected with the rise in globalization, it is important that local, national, and international efforts are collaborated and increasingly able to cooperate with one another. One indication of the evolution of combating human trafficking within France, the United Kingdom and the European security institutions is that although it has become more connected to organized crime, the human rights aspect of this heinous crime should not be lost. The preventive and deterrent policies along with the prosecution of these crimes should not lose sight that there are victims involved in this process that are suffering human rights violations and their protection should remain key.

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## **II. HUMAN TRAFFICKING**

The importance of a definition that removes the ambiguities and differences in opinions of human trafficking throughout the international community cannot be understated. Prior to the Palermo Convention, there was no one definition that clearly portrayed exactly what comprises human trafficking. The discussion of human trafficking often carries the label of ‘modern slavery’ and many times puts it in the same categories as human smuggling and illegal immigration. This chapter will clearly define human trafficking and discuss the importance of removing the confusion that sometimes exists between illegal migration, human smuggling and human trafficking.

Another goal of this chapter is to soundly discuss the origins of human trafficking and how the end of the Cold War and vacuum of power that existed after the fall of communism have impacted the increase of human trafficking throughout Europe. Understanding the flow of victims from source country to destination country and the motivations behind those flows will help the reader understand the background that the United Kingdom, France, and the European security institutions’ policies are developed upon.

The other important aspect of human trafficking is its connection with organized crime and why that trend is steadily growing. The inclusion of human trafficking into a network that already included arms and drug trafficking has made human trafficking a much more viable threat to state security. These threats to state security include the links that have been made between human trafficking and the funding of terrorism and other criminal networks. This part of the nature of human trafficking, combined with the violations of human rights, makes it very dangerous and a problem that has gained international notoriety.

### **A. HUMAN TRAFFICKING DEFINED**

Jo Goodey notes that several “notable legal developments against slavery” occurred during the 20th Century to include the League of Nations 1926 Slavery Convention and the United Nations 1956 Supplementary Convention on the Abolition of

Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.<sup>11</sup> The first international convention to address human trafficking as a specific problem was convened by the UN as the 1949 Convention on the Suppression of Trafficking in Women and the Exploitation of Prostitution of Others.<sup>12</sup> The combination of the motives behind these conventions was the beginning of a problem that would become much clearer towards the end of the twentieth century. Through the course of the 1980s and 1990s when human trafficking became a much greater problem, there was a lot of confusion about the differences between human smuggling, illegal immigration, and human trafficking. In a 2000 report by the UNHCR, the different definitions of ‘white slavery’ and human trafficking that existed between 1900 through the 1949 UN convention are discussed and the lack of an international agreement on the definition are noted.<sup>13</sup> It argues that by 2000, the increase of involvement of different agencies, organizations, and institutions have led to increased confusion on what the definition of human trafficking was. To help provide a legal reference point for the international community and remove many of the ambiguities that existed between countries and their definition of human trafficking, the UN organized the Palermo Convention to address this matter.<sup>14</sup> Out of it came this definition of human trafficking provided for in Article 3, paragraph (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual

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<sup>11</sup> Goodey, Jo. "Human Trafficking: Sketchy Data and Policy Responses." *Criminology and Criminal Justice* 8, no. 4 (2008): 421-442. doi:10.1177/1748895808096471. <http://search.proquest.com/docview/57279141?accountid=12702>. 422.

<sup>12</sup> Ibid., 422.

<sup>13</sup> UNHCR 2000 report: The trafficking and smuggling of refugees, the end game in European asylum policy?

<sup>14</sup> Goodey, 422.

exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs<sup>15</sup>

This definition was imperative in the removal of vagueness between states and their own definitions of human trafficking. An important aspect of this definition is the mention of the purpose for exploitation, removing the association of human trafficking from illegal immigration or human smuggling. Up to, and in some cases even today, it is common to see human trafficking discussed along with human smuggling and illegal migration. Korin Lebov points out that during her research, the deception and coercion that was identified in the victims interviewed made it very easy to distinguish the difference that exists between common human smuggling and illegal immigration with human trafficking.<sup>16</sup> Through its connection with human smuggling and illegal immigration in its early days, confusion around the identification of human trafficking existed and it has commonly been identified using several different terms. Modern slavery, trafficking in persons, and trafficking in human beings are just a few of these terms that are used. The Palermo Convention helped to combine the definition of these terms but the interchangeable use of each of these terms still exists today.

### **1. Distinguishing Between Human Trafficking, Human Smuggling, and the Illegal Migration of People**

As mentioned previously, human trafficking must be delineated from smuggling and illegal immigration to help understand why policies are produced that exclude provisions on smuggling and immigration. Smuggling and illegal migration assume the willingness of those being moved to seek out work or entry into another states borders. Trafficking involves the movement of people but it also includes their exploitation, most often sexually but not always. As Celine Nieuwenhuys points out, “smuggling is usually associated with men, whereas trafficking evokes women and children, who are in

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<sup>15</sup> What is Human Trafficking." United Nations Office on Drugs and Crime. United Nations, n.d. Web. 11 Dec 2010. <<http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menuaside>>.

<sup>16</sup> Korin Lebov. "Human Trafficking in Scotland." *European Journal of Criminology* 7, no. 1 (JAN, 2010): 77–93.



principle understood as victims rather than criminals.”<sup>17</sup> Human trafficking does not solely mean victims forced into the sex industry. Victims of human trafficking are forced to cooperate in many other undertakings. Mojca Pajnik argues that many observers neglect “the fact that people are trafficked to different industries, that is, farming, domestic work or cleaning, not just the sex industry, however important this may be.”<sup>18</sup> Cornelius Friesendorf agrees and notes that “it is true that many women work as prostitutes in brothels and private apartments, ‘entertainers’ in bars, and ‘actors’ in pornography films under appalling conditions but reports on sex trafficking are sensationalized and must include other forms of labor that these victims are forced into.”<sup>19</sup> The main focus of my case studies will be on the sex trafficking industry but will also touch on the other forms of exploitation related to human trafficking. The sexual exploitation inherent with a large percentage of human trafficking victims will help explain the involvement of organized crime and the need to blend policing prostitution with combating human trafficking.

According to the United Nations, there are three constituent elements to human trafficking:

The first is the act (what is done) and involves the recruitment, transportation, transfer, and harbouring or receipt of persons. The second element, the means (how it is done), involves the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim. The third element is for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs.<sup>20</sup>

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<sup>17</sup> Céline Nieuwenhuys, & Antoine Pécoud. (2007). Human Trafficking, Information Campaigns, and Strategies of Migration Control. *The American Behavioral Scientist*, 50(12)p. 1678

<sup>18</sup> Pajnik, M. (2010). Media framing of trafficking. *International Feminist Journal of Politics*, 12(1). p. 57

<sup>19</sup> Friesendorf, Cornelius. 2007. Pathologies of security governance: Efforts against human trafficking in europe. *Security Dialogue* 38 (3) (SEP): p. 381

<sup>20</sup> What is Human Trafficking." United Nations Office on Drugs and Crime. United Nations, n.d. Web. 11 Dec 2010. <<http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menuaside>>.

Figure 1 is provided by the United Nations website showing the three elements that help define what human trafficking consists of:

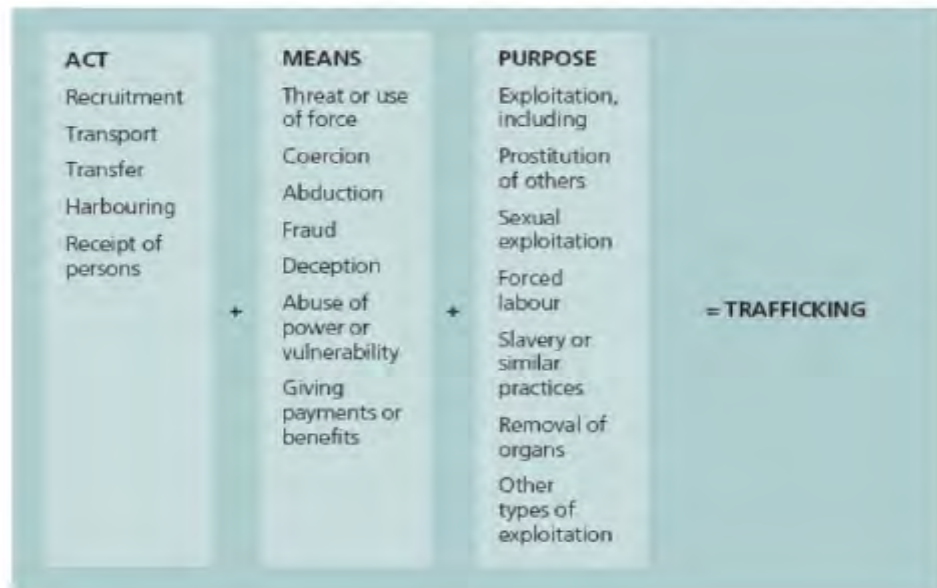


Figure 1. Elements of Human Trafficking<sup>21</sup>

The combination of these three elements provides the guidelines for what human trafficking entails and how it is different from someone trying to enter a country illegally to provide services in which they were a willing participant. Human trafficking entails a long list of items to include deception, deceit, coercion, and exploitation, thus producing an individual at the outset that can be identified as a victim of a practice that violates their human rights.

## B. SOURCES OF HUMAN TRAFFICKING

### 1. The End of the Cold War and its Impact on Human Trafficking

The phenomenon of human trafficking is set on a cycle of the movement of victims from source countries to destination countries. The patterns of European human

<sup>21</sup> What is Human Trafficking." United Nations Office on Drugs and Crime. United Nations, n.d. Web. 11 Dec 2010. <<http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menu>>.

trafficking have shown the movement of victims from Eastern Europe towards the more wealthy Western states. Source countries in Europe include: Albania, Armenia, Georgia, Kazakhstan, Moldavia Romania, Serbia and Montenegro, and Ukraine.<sup>22</sup> The end of the Cold War and the failure of communism produced several successor states in the Balkans that are in a transitory process and remain fragile today. The Balkans remains a major source of victims of human trafficking in Europe and thus represents a target area of many of the policies of the states and institutions of Europe. The problem of human trafficking has steadily increased in Europe since the end of the East–West conflict. Goodey relates the interest of human trafficking in the international community to the “illegal movement of people and exploitation of vulnerable populations at the hands of organized crime” that grew from this unstable region of Eastern Europe since the fall of communism.<sup>23</sup> The countries of the former Soviet Union, Central Europe, and Southeast Europe have become the main regions of origin, transit, and in some cases, destination of victims of human trafficking. As Friesendorf points out, “women from other world regions have been trafficked through Southeast Europe, and women from Southeast Europe, particularly from Albania, Bulgaria, Moldova, and Romania, have been trafficked to member countries of the EU. Moreover, internal trafficking in Southeast Europe has risen sharply as well.”<sup>24</sup> The vacuum of power that exists because of the fall of the Soviet Union has led to a substantial increase in the rise of criminal networks that are able to exploit the unfavorable economic conditions of these states. The criminal networks also are able to use the corrupt nature of police forces and institutions in these areas to easily move people and exploit them. For countries outside of Europe, the Balkans represents the ‘foot in the door’ to the rest of Europe. The fall of the Soviet Union represented a disappearance of the power that kept the populace somewhat under control. The loss of that power led to the opening of Eastern European countries to

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<sup>22</sup> Nieuwenhuys & Pécoud, 1678.

<sup>23</sup> Goodey, 424.

<sup>24</sup> Friesendorf, 382.

migrate to the wealthier West.<sup>25</sup> It is argued that those that are the poorest have become the greatest sources of immigrants, ripe for coercion and exploitation.<sup>26</sup>

Pajnik expands upon these thoughts with the following remarks: “Human trafficking is seen as a menace originating from the post-communist world. If understood as exploitative, slave-like labour of different forms, occurs, according to estimates by the International Labour Organization, to supply not only underground sex industries run by Albanian gangs, but also sweatshops, service jobs, farming and domestic work, that is, in reaction to demands that come from the West.”<sup>27</sup> The emphasis on the post-communist world and those states as the source countries is prevalent throughout most studies done on this subject. A study done by the International Labour Organization shows that “trafficking dramatically increased in these countries during the 1990s as major social and economic disruptions took place and their doors opened to the world beyond the Communist sector.”<sup>28</sup>

The criminal link to these activities and the opening of the “doors” to the post-communist world are further emphasized by Friesendorf. He states that “one remarkable trend in international security after the end of the East–West conflict has been the growing importance of non-state actors pursuing criminalized activities across national borders.”<sup>29</sup> As mentioned, these non-state actors are more than willing and capable to exploit the lack of organizational control in the Balkans. Although this quote is specific to Albania, it is comparable to conditions in surrounding states: “Rapid economic changes, migration patterns, and severe hardships since the fall of Communism in 1990 have strained the Albanian strong emphasis on the family with a patriarchal orientation

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<sup>25</sup> Vayrynen, R., & World Institute for Development Economics Research. (2003). *Illegal immigration, human trafficking, and organized crime*. Helsinki: United Nations University, World Institute for Development Economics Research. p. 15

<sup>26</sup> Ibid., 15.

<sup>27</sup> Pajnik, M. (2010). Media framing of trafficking. *International Feminist Journal of Politics*, 12(1). 53

<sup>28</sup> Trafficking of Children in Albania. International Labour Organization Study. 2007. 942

<sup>29</sup> Friesendorf, 383.

and intensified problems.”<sup>30</sup> Poverty levels continue to be a major reason for human trafficking and desperate measures are taken to help improve personal or family circumstances. Many times, women and children are promised a better life and are willing to move to the more developed West but end up being exploited either within their own country or abroad.<sup>31</sup>

This is a problem that is either coming from countries included as EU member states, those looking for membership, or those closely associated with the member states. The evolution of legislation and policies shows that countries in this region are painfully aware of this phenomenon and have reacted accordingly in their decisions. The differences in how to approach this problem will be defined further when comparing the United Kingdom and France.

### **C. HUMAN TRAFFICKING AND ORGANIZED CRIME**

The acceptance of human trafficking by criminal networks as a viable activity to financially support organized crime syndicates increased the recognition of human trafficking as an international problem and a serious security threat. Due to the financial benefits of human trafficking, the existence of criminal networks involved in other activities, and the increased ease of movement within the borders of the EU, human trafficking has become a very attractive option for criminals within organized crime syndicates to pursue.

Raimo Vayrynen defines organized crime as referring to “subnational and transnational corporate agencies that operate systematically outside the purview of the law with the intention to turn in profits for its members, especially the leaders.”<sup>32</sup> Trafficking in human beings has increasingly become a global business organized by these criminal networks. Financially, human trafficking has provided a lucrative option with little risk involved. Although the structures of these groups vary greatly, from loose

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<sup>30</sup> Gjermeni, Eglantina, Mary P. Van Hook, Saemira Gjipali, Lindita Xhillari, Fatjon Lungu, and Anila Hazizi. 2008. Trafficking of children in albania: Patterns of recruitment and reintegration. *Child Abuse & Neglect* 32 (10) (OCT): 942

<sup>31</sup> Ibid., 942.

<sup>32</sup> Vayrynen, 2.

amateur groups to international structured organizations, the organization of these different criminal groups in an underground setting is common.<sup>33</sup> By using contacts that have already been established due to drug trafficking and arms trafficking, organized criminal networks were able to easily shift to human trafficking.

Transcending of national borders is what makes human trafficking a much greater threat than local or regionally contained issues. In 2000, a New York Times article discussed the lack of international cooperation to combat human trafficking and its association with global organized crime.<sup>34</sup> The article also mentioned that efforts had been kept at the local and regional level and that these efforts needed to be more forward thinking and transnational in their approaches.<sup>35</sup> This is an almost identical argument made in reference to drug trafficking in South Eastern Europe and Africa in 1992 by the New York Times. In that article, the willingness of different gangs and organizations to operate across borders was identified and the argument was made that regional efforts need to be combined to tackle the problem.<sup>36</sup> It was argued that the organized crime groups in the Balkans have evolved their efforts and used their organizational skills to expand their criminal activities into other areas within Europe, making it harder for unilateral efforts in combating human trafficking to work.<sup>37</sup>

As discussed earlier, human trafficking is not the same as illegal migration but greater restrictions on migration have increased the amount of human trafficking cases.

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<sup>33</sup> International Centre for Migration Policy Development (ICMPD). Regional Standard for Anti-trafficking in SEE.

<sup>34</sup> Joseph Kahn and Judith Miller. "Getting Tough on Gangsters, High Tech and Global." *New York Times* (1923-Current File), Dec 15, 2000. <http://search.proquest.com/docview/91592584?accountid=12702>.

<sup>35</sup> Ibid.

<sup>36</sup> JOSEPH B. "Smuggling and use of Illicit Drugs are Growing, U.N. Survey Finds." *New York Times* (1923-Current File), Jan 13, 1992. <http://search.proquest.com/docview/108835274?accountid=12702>.

<sup>37</sup> Klas Karrstrand and Michael Jonsson. "Going West – Baltic crime groups expand and diversify," Jane's Intelligence Review, April, 1, 2007, accessed on December 1, 2011, [http://www4.janes.com.libproxy.nps.edu/subscribe/jir/doc\\_view.jsp?K2DocKey=/content1/janesdata/mags/jir/history/jir2007/jir10140.htm@current&Prod\\_Name=JIR&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%2C+%28%5B100%5D+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%29%29](http://www4.janes.com.libproxy.nps.edu/subscribe/jir/doc_view.jsp?K2DocKey=/content1/janesdata/mags/jir/history/jir2007/jir10140.htm@current&Prod_Name=JIR&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%2C+%28%5B100%5D+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%29%29)

Increased border control has made it much more difficult to enter areas within the EU. With the rise of territorial and national states, there has been an increase to constraints on migration flows. The restrictions on international migration have required people to seek other ways of crossing a border, thus leading to more people becoming victims of the exploitative nature of human trafficking.<sup>38</sup> The EU has made freedom of movement a very attractive option for organizations trying to traffic in humans. Items such as the Schengen Agreement and EU directive 2004/38/EC have allowed people to move around at will once inside the borders of the EU member states. This freedom of movement has vastly increased the attractiveness of trafficking into EU countries for once you are within the member states borders movement of illegal entrants becomes very easy. Organized crime networks are acting quickly to exploit this increase in humans trying to enter the EU illegally and once they have them under their control, the victims are easily exploitable.

Increased profits linked with human trafficking have been identified throughout the past twenty years and further fuel the connection of human trafficking with organized crime. Profitable activities are continually sought out by criminal organizations and human trafficking has been recognized as such.

Criminal groups already have the resources and networks in place to traffic drugs and weapons, making human trafficking an easy addition.<sup>39</sup>

An OSCE guide on human trafficking in Southeastern Europe explains the link and reasoning for organized crime syndicates to pursue human trafficking. In this guide, the “lack of legal harmonization” between states, confusion of illegal migration versus human trafficking, lack of victim protection, and corruption of government officials are labeled as some of the complex causes of human trafficking in the region.<sup>40</sup> The focus on legal harmonization and ease of trafficking are appropriate for that time frame and are ultimately addressed internationally at the Palermo Convention. Vayrynen argues that

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<sup>38</sup> Vayrynen, 1.

<sup>39</sup> Vayrynen, 7.

<sup>40</sup> OSCE/ODIHR, Reference Guide for Anti-Trafficking Legislative Review. With particular emphasis on South Eastern Europe. 2001.

organized crime has increased its presence in the human trafficking business because the laws of prosecution within the EU member states were much more lenient than the laws against drug trafficking.<sup>41</sup> By following the path of least resistance, organized crime syndicates have found a lucrative business that is much easier than traditional forms of profit such as drug and weapons trafficking. What makes the United Kingdom and France so attractive for human trafficking is the location of immigrant populations already established within their borders. For the United Kingdom, the Albanian population and the increase in criminal activity have become a greater problem due to the lenience of the prosecution for crimes related to human trafficking and prostitution.<sup>42</sup>

In a 2006 Commission report to the United States Congress, a Russian news source, Pravda, is discussed as reporting that organized criminals, extremist organizations, and terrorist groups are increasingly moving into trafficking to generate revenue to support their activities.<sup>43</sup> The Commission report continues to discuss the importance of combating human trafficking because of these specific examples of human trafficking funding terrorists and the threat that they represent. In an article about funding terrorism in Pakistan, it is discussed that criminal activities and the support of criminal gangs helps to increase the scope of operations that terrorists are able to reach.<sup>44</sup> The money provided by these criminal networks includes that made from human trafficking and helps to provide the resources required for terrorists to operate. This connection is an obvious threat to state security, especially since the events that have occurred since 9/11 and the constant worry that Western countries have about terrorism.

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<sup>41</sup> Vayrynen, 10.

<sup>42</sup> "Destination UK," Jane's Intelligence Review, December 01, 2001, accessed on December 01, 2011, [http://www4.janes.com.libproxy.nps.edu/subscribe/jir/doc\\_view.jsp?K2DocKey=/content1/janesdata/mags/jir/history/jir2001/jir00513.htm@current&Prod\\_Name=JIR&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%2C+%28%5B100%5D+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%29%29](http://www4.janes.com.libproxy.nps.edu/subscribe/jir/doc_view.jsp?K2DocKey=/content1/janesdata/mags/jir/history/jir2001/jir00513.htm@current&Prod_Name=JIR&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%2C+%28%5B100%5D+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5D%28+human+%3CAND%3E+trafficking%29+%3CIN%3E+body%29%29%29)

<sup>43</sup> CSCE, Combating the Sexual Exploitation of Children, Hearing before the United States Congress. September 27, 2006.

<sup>44</sup> Acharya, Arabinda, Bukhari, Syed Adnan Ali Shah and Sulaiman, Sadia (2009) 'Making Money in the Mayhem: Funding Taliban Insurrection in the Tribal Areas of Pakistan', *Studies in Conflict & Terrorism*, 32: 2, 95–108



#### **D. CONCLUSION**

Human trafficking has emerged as a very modern transnational problem. There were attempts to define and recognize it throughout the twentieth century but it was not until the late 1980s and early 1990s that it truly emerged as a serious threat. By defining human trafficking, the association of human trafficking with human smuggling and illegal immigration is removed. This will eventually help with the prosecution of those involved and with the protection of its victims. Human trafficking was initially seen as a violation of human rights but is now seen as a larger part of serious organized crime activities. The connection with organized crime is dependent on the existence of those criminal networks flowing from Eastern and South Eastern Europe into Western Europe. As the policies of the United Kingdom and France are reviewed, it is important to realize this flow from a human rights based issue to its relation with organized crime. The ebb and flow of the importance of each of these approaches has slowly come to a convergence towards the end of the first decade of the Twenty-First Century.

### **III. HUMAN TRAFFICKING AND THE UNITED KINGDOM**

The decentralized nature of legislation and policies in the United Kingdom has played a prominent role in the decisions that have been made to combat human trafficking. In comparison to France, the United Kingdom has had to develop policies and legislation that work within a more centralized framework than they were previously accustomed to. Participation in bilateral and multilateral agreements by the United Kingdom were not on the same level as France when human trafficking was first being fought but since then has grown to a much higher level. The growth of transnational criminal activities and the impact of those activities affected the decisions of the United Kingdom's policy makers and forced them to operate more transnationally.

The United Kingdom's policies on human trafficking have slowly evolved over the past two decades and have synthesized two different views on how to combat human trafficking. Human trafficking was first approached as a violation of human rights and policies to combat it were treated as such. Since that time, the United Kingdom has recognized the criminal nature involved around human trafficking and changes to policy reflect this. An increase in efforts following the Palermo Convention addressing the criminal nature and the relationship of human trafficking to organized crime existed throughout the first part of the twenty-first century. Goodey points out that the heavy focus on organized crime and the criminal nature of human trafficking caused the UK to be criticized for its lack of a victim-centered response.<sup>45</sup> The UK, in coincidence with the 200th anniversary of their abolition of slavery, launched an Action Plan on Tackling Human Trafficking in 2007 which beefed up their assistance for victims and their efforts towards victim protection.<sup>46</sup> Towards the end of the twenty-first century, it is common to see a blending of these two approaches to combat human trafficking, arguably the best approach to combating human trafficking going into the future.

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<sup>45</sup> Goodey, 424.

<sup>46</sup> Goodey, 424.

Another important aspect about studying the United Kingdom is its geographical isolation from the mainland of Europe. Because of this, a unique relationship has been formed with France to eliminate how victims are trafficked into the United Kingdom. For the United Kingdom and France, discussing the sexual exploitation aspect of human trafficking allows for the dissection of policy towards prostitution and how human trafficking relates to organized crime.

#### **A. HUMAN TRAFFICKING, SLAVERY LEGISLATION, AND VIOLATIONS OF HUMAN RIGHTS UP TO THE PALERMO CONVENTION**

In Chapter II, I discussed how legislation towards the abolishment of slavery slowly included the concept of ‘white slavery’ or ‘modern slavery.’ This was a process that the United Kingdom was heavily involved in. The concept of protecting human rights and the abolishment of slavery provide insight into how human trafficking was approached from the beginning. By outlining the efforts of the United Kingdom over the past two centuries, a better feel for its initial ideas on how to combat human trafficking will be established. The United Kingdom has constantly strived to handle human rights affairs and slavery related issues with decisive legislation and quick actions.

##### **1. Legislation Related to Slavery and Human Rights**

Since the United Kingdom considers itself a protector and purveyor of human rights, a brief mention of its efforts against slavery seems relevant. An understanding of how the United Kingdom viewed the white man’s burden and their history of attacking slavery as an institution makes its early interest in combating human trafficking more relevant. Early examples of this can be seen with the abolition of the slave trade and the transportation of slaves. The first major antislavery movement began in the United Kingdom when the Society for Effecting the Abolition of the Slave Trade was formed on May 22, 1787.<sup>47</sup> In 1807 Britain enacted the Slave Trade Act of 1807 abolishing the trans-Atlantic slave trade and Parliament passed the Slavery Abolition Act 1833,

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<sup>47</sup> Siddharth Karr, "Designing More Effective Laws Against Human Trafficking," *Northwestern Journal of Human Rights*, 9, no. 2 (2011): 131, <http://www.law.northwestern.edu/journals/jihr/v9/n2/1/kara.pdf> (accessed October 27, 2011).

outlawing slavery throughout the majority of the British Empire.<sup>48</sup> These acts were independent in nature and did not rely on the approval of other governments. They were done because of the inhumanity involved in the buying and selling of human beings.

In the 1940s, the United Kingdom participated in the European Convention on Human Rights, which provided the impetus for the Council of Europe in 1949. Its twentieth century participation in these types of national and increasingly international programs has defined the moral direction of the United Kingdom during this century. The Human Rights Act of 1998 further solidified the United Kingdom's determination to ensure the proper protection of human rights and provided a legal framework for how this would be done.

It was not until the early 2000s that the United Kingdom made major changes to its policies on human trafficking, changes that represented an increased focus on the criminal nature of human trafficking, not viewing it as an exclusively human rights based issue. Previous legislation and efforts discussed and targeted slavery but very little legislation or practices were in place to combat an increasingly more complex problem of human trafficking. As the recognition of human trafficking grew, its prevalence to the desecration of human rights and to the security of the state came to bear.

## **2. Problems Related to Human Trafficking and Confusion in the 1990s**

During the 1990s, problems in South Eastern Europe and failures in human rights areas were an indication that the United Kingdom was failing to properly address human trafficking and that it needed to cooperate within transnational European organizations to help address these issues.<sup>49</sup> Much of the problems realized in South Eastern Europe were based on the inability of many different independent governments to form proper and similar tools to combat human trafficking. This was an issue that would be addressed around the turn of the century.

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<sup>48</sup> Karr.

<sup>49</sup> "Britain's Rightful Place." *The Economist*, May 8, 1997. <http://www.economist.com/node/148952> (accessed October 27, 2011).

More problems emerged in the Balkans when NATO, the UN, and the EU began to descend upon the region for stability operations and reconstruction efforts. Western officials encouraged and participated in human trafficking by having sex with prostitutes and proving to Balkan criminal organizations the lucrative business of prostitution and human trafficking.<sup>50</sup> The lack of a moral compass and the inability for government officials to recognize that their behaviors were supporting criminal activities remained a problem that would need to be addressed by the Western countries, including the United Kingdom, in the 2000s.

Further indications of the lack of international governance of this problem were the criminal gangs corrupting local and international police forces within the Balkans. The United Kingdom's reputation for human rights was being attacked and further defined the need for international cooperation to fight these atrocities happening inside and outside of their borders. The connection with the Balkans is further cemented by the presence of Albanians and Kosovars in London that control seventy percent of massage parlours in Soho.<sup>51</sup> Vayrynen argues that "these groups have connections with immigration and prostitution rackets across Western Europe."<sup>52</sup> Some data from the first U.S. State Department reports that the United Kingdom has over 1,500 trafficked women for sexual exploitation each year.<sup>53</sup>

In 1999, indications of the growth of Britain's sex slave trade began to emerge and the connection to organized criminal activity is clearly pointed out. It was also argued that despite the growth of massage parlors and the increased availability of sex commerce, police forces outside of London were not prepared to deal with the problem.<sup>54</sup> This realization would lead to the establishment of police task forces across the United

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<sup>50</sup> Rory Carroll. "Western officials 'colluding with people traffickers'." *The Guardian*, July 22, 2002. <http://www.guardian.co.uk/world/2002/jul/23/immigration.immigrationandpublicservices>

<sup>51</sup> Vayrynen, 19.

<sup>52</sup> Vayrynen, 19.

<sup>53</sup> U.S. State Department, (2001). *2001 trafficking in persons report* (Report No. 01). United Kingdom Country Narrative. Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2001/index.htm>

<sup>54</sup> Tony Thompson and Nicole Veash. "Britains's Sex Slave Trade Booms," *The Guardian*, March 13, 1999.

Kingdom to work with each other to share information and cooperate to track human trafficking rings. The existence of sexual exploitation and human trafficking was being discussed and identified by government officials, pundits, and non-governmental actors but the extent of the problem was still unrealized. Several newspaper reports in the late 1990s acknowledged the existence of trafficked women in areas of the United Kingdom that police had not identified.<sup>55</sup> Although soliciting of prostitution is illegal in the United Kingdom, Internet and online sales prove the presence of “off-street” prostitution that is unknown to police forces.<sup>56</sup>

As late as 1999 in the United Kingdom, issues confusing illegal immigration, smuggling, and human trafficking continued to exist, although obvious efforts were being made to combat human trafficking. An example of this from 1999 discusses the 1999 immigration act that fines lorry drivers who are caught smuggling people into the country. This act was enacted to also attack human trafficking but it pointed to the problem of the link between smuggling, illegal immigration and human trafficking that continued to exist in the legislation in Britain and did not properly address the problem of human trafficking. What it does show is that Britain acknowledged human rights violations but did not recognize the difference between them and the need for stricter prosecution. Human rights groups doubted the impact that the new immigration act would have on human trafficking even though the Home Office claimed that prosecution would be “fairer, faster and firmer.”<sup>57</sup>

At the end of the millennia, human trafficking for sexual exploitation was recognized as a serious problem but how great of a problem was unknown. The United Kingdom was unaware of the size and magnitude of the problem and they were unprepared to combat it effectively. Criminal law did not properly address the problem

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<sup>55</sup> Liz Kelly and Linda Regan. “Stopping Traffic: Exploring the extent of, and responses to, trafficking in women for sexual exploitation in the UK.” United Kingdom Policing and Reducing Crime Unit, May, 2000. 20. According to their report, this information was found by reporters working undercover and infiltrating trafficking networks.

<sup>56</sup> Kelly and Regan, 20.

<sup>57</sup> Derek Brown. “Trafficking in human misery.” *The Guardian*, June 19, 2000. <http://www.guardian.co.uk/uk/2000/jun/19/immigration.immigrationandpublicservices4> (accessed October 27, 2011).

and actually fueled criminal organizations to choose human trafficking over other illegal activities due to the low penalties and high rewards that surrounded human trafficking.<sup>58</sup>

## **B. POST-2000 (POST-PALERMO PROTOCOL)**

Most of the efforts made to combat human trafficking effectively occur after the passing and ratification of the Palermo Protocol. This convention impacted how the United Kingdom addressed combating human trafficking and this impact will be shown by the evolution seen in their legislation and policies from 2000 to present-day. The United Kingdom has had to accept more involvement within multilateral institutions and a greater centralization of their intelligence between organizations to help combat human trafficking effectively.

### **1. Impact of Palermo Convention in the United Kingdom**

Following the turn of the century and the advent of the United Nations Palermo Protocol, human trafficking was provided an international definition and a framework for combating human trafficking was introduced. This landmark victory for activists involved in the combat against human trafficking did not equal immediate success in curtailing the problem. Within the UK, as late as 2002, there were people expressing their displeasure with progress in the combat against human trafficking. Chief Superintendent Simon Humphrey proclaimed that human trafficking was not being treated with the “utmost seriousness” that it should be and the London Vice Squad reported that not enough was being done to stop human traffickers from forcing women into prostitution.<sup>59</sup> The United Kingdom, after the turn of the century, still had no specific laws against human trafficking and used a range of other relevant laws to prosecute perpetrators.<sup>60</sup> Issues still remained with the police force and the combat against human trafficking. Many regular police officers did not see the need to

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<sup>58</sup> Tony Thompson and Nicole Veash. “Britains’s Sex Slave Trade Booms,” *The Guardian*, March 13, 1999.

<sup>59</sup> “Forced prostitution ‘goes unchecked’.” *The Telegraph*, August 16, 2002.  
<http://www.telegraph.co.uk/news/1404587/Forced-prostitution-goes-unchecked.html>

<sup>60</sup> U.S. State Department, (2001). *2001 trafficking in persons report* (Report No. 01). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2001/index.htm>

aggressively pursue prostitution rings because of the lack of foresight to see the bigger picture. Prostitution was seen as a nuisance too many police units and their efforts were consistently reactive instead of being proactive. Reactive responses led to pockets of tolerance for human trafficking and sexual exploitation.<sup>61</sup> Some of these problems were also spurned by the lack of interagency cooperation and communication and a lack of coordination of anti-trafficking efforts was duly noted in the 2001 Trafficking in Persons report.<sup>62</sup> This lack of coordination is a direct result of the decentralized aspects of the United Kingdom's police forces.

In 2001, Elaine Pearson, the Trafficking Program Officer for the Anti-Slavery International organization, discusses some of the progress and rhetoric of the United Kingdoms' leadership. She points out that Tony Blair and Giuliano Amato's pledge to combat people trafficking and illegal immigration relates to a key flaw within the system of not recognizing the difference between the two issues and that they cannot be tackled together.<sup>63</sup> Her position on human trafficking still contains a human rights based position by arguing that the Blair and Amato pledge requires an acknowledgement of better treatment and protection of trafficked persons and does not speak to the prosecution of human traffickers.<sup>64</sup> The importance of human rights approaches should not be discounted or lost but it is of equal importance to point out the other aspects of combating human trafficking. Between 2001 and 2002, the United Kingdom concentrated its efforts on human trafficking by dedicating contact officers in national and international law enforcement agency with specific anti-trafficking goals.<sup>65</sup> A heavy effort was made to support domestic and international organizations, specifically the EU,

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<sup>61</sup> Liz Kelly and Linda Regan, 26.

<sup>62</sup> U.S. State Department, (2001). *2001 trafficking in persons report* (Report No. 01). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2001/index.htm>

<sup>63</sup> Elaine Pearson. "Trafficking flaws." *The Guardian*, February 11, 2001. <http://www.guardian.co.uk/news/2001/feb/11/letters.theobserver7> (accessed October 27, 2011).

<sup>64</sup> Ibid.

<sup>65</sup> U.S. State Department, (2002). *2002 trafficking in persons report* (Report No. 02). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2002/index.htm>



OSCE, and the Balkans Stability Pact. The United Kingdom also legally obligated itself to implement the EU legal framework decision on human trafficking within two years.<sup>66</sup>

Vikram Dodd reported in 2001, with quotes by the assistant chief constable Colin Smith, that organized crime had become more reliant on human trafficking because of the high financial rewards that were possible compared to the lower risk of capture and prosecution:

The key issue is that organised immigration crime is fast becoming a national priority second only to class A drugs in respect of serious organised crime. Human trafficking exploits the economic disparities between the relatively affluent UK and developing parts of Europe. The immigrants have come here having been offered high income employment. But they have arrived to find they have been working almost as slave labour on agricultural sites around Southampton.<sup>67</sup>

The need for protection of human rights violations and the protection of victims versus the need for prosecution of the criminal aspects have been the major balancing act of the United Kingdom since the Palermo Convention. International pressures to combat both of these issues across the globe have influenced some policy but national concerns are the main impetus for combating human trafficking.

## **2. Chronological Introduction of Initiatives of Legislation and Policies in the United Kingdom**

As pointed out earlier, immediately following the Palermo Convention and the thrust that human trafficking received onto the world stage, some small steps were taken by the United Kingdom to help combat human trafficking. It was not until 2002 that the strongest attempts in fortifying human rights efforts and focusing law enforcement to combating human trafficking truly began, based mostly on the internal criticism that the government was receiving from state and non-state actors. The United Kingdom obligated itself to uphold an EU decision in 2001 that pushed for stricter prosecution and

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<sup>66</sup> U.S. State Department, (2002). *2002 trafficking in persons report* (Report No. 02). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2002/index.htm>

<sup>67</sup> Vikram Dodd. "People trafficking second only to drugs, say police." *The Guardian*, April 24, 2001. <http://www.guardian.co.uk/uk/2001/apr/25/immigration.immigrationandpublicservices?INTCMP=SRCH> (accessed November 21, 2011)

penalties for human trafficking in Europe. Although this did not directly impact the United Kingdom because it had already instituted maximum penalties of up to ten years, a figure higher than that proposed by the EU, it did show its willingness to acknowledge international agreements in the combat against human trafficking.<sup>68</sup>

In 2001, the first legislation was introduced to parliament specifically identifying human trafficking related offenses, particularly in the area of sexual exploitation.<sup>69</sup> In 2003, these laws were established and although they have been amended since their establishment, they marked the first of its kind in the United Kingdom that addressed exploitation and human trafficking explicitly offering much stricter laws and penalties. The 2003 human trafficking laws, in association with the Asylum and Immigration Act 2004 and the Proceeds of Crime Act 2002, have provided prosecuting authorities with a much stronger tool to prosecute criminal elements and reduce the high reward and low risk that has been associated with human trafficking.<sup>70</sup> The Immigration and Asylum Act were commended for increasing maximum penalties to 14 years for offenses related to prostitution and human trafficking.<sup>71</sup> This increased focus on human trafficking became apparent after this legislation was passed but it was not quickly producing success.

In 2003, there were an estimated 4,000 victims of trafficking for prostitution within the United Kingdom but from 2004–06 there were only 30 convictions for trafficking offences.<sup>72</sup>

Besides the beginning of legislation that addressed human trafficking offenses, the United Kingdom also contributed to several other national and international efforts.

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<sup>68</sup> "EU agrees jail terms for people traffickers." *The Telegraph*, September 28, 2001. <http://www.telegraph.co.uk/news/1357848/EU-agrees-jail-terms-for-people-traffickers.html> (accessed October 27, 2011).

<sup>69</sup> U.S. State Department, (2003). *2003 trafficking in persons report* (Report No. 03). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2003/index.htm>

<sup>70</sup> Andrew Gilbert, The Centre for Social Justice, "An Overview of Human Trafficking from a United Kingdom Perspective." Accessed October 27, 2011. [http://www.centreforsocialjustice.org.uk/client/downloads/WritersForum/CSJ Human Trafficking.pdf](http://www.centreforsocialjustice.org.uk/client/downloads/WritersForum/CSJ%20Human%20Trafficking.pdf).

<sup>71</sup> U.S. State Department, (2003). *2003 trafficking in persons report* (Report No. 03). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2003/index.htm>

<sup>72</sup> Lewis Williamson. "Sign up to human trafficking covention, say Tories." *The Guardian*, January 3, 2007. <http://www.guardian.co.uk/politics/2007/jan/03/conservatives.immigrationandpublicservices> (accessed October 27, 2011).

Support of the European Commission was established by passing a five year funding program to help strengthen their operation and legal fight against human trafficking, the Crown Protection Service began working much closer with police at home and increased their efforts with EuroJust, an initiative of the EU Justice and Home Affairs Council, and a United Kingdom law enforcement initiative was introduced called Task Force Reflex to help coordinate all agencies involved in combating human trafficking.<sup>73</sup>

2003 was not only a productive year for the United Kingdom in instituting legislation but also in starting victim protection projects to combat human trafficking. The precarious balance of criminal prosecution and victim protection led to the creation of The Poppy Project in London, a care based organization that was established in 2003 to help provide victims of human trafficking with a place to recover both mentally and physically. The creation of this project was heavily based on the Police Research Series Paper recommendation by Kelly and Regan. The Poppy Project started as a pilot project to provide accommodation and support for women who have been trafficked. Due to the high demand for the services offered, the Poppy Project has since established an outreach team to meet the increased demand and to date more than 700 women have been referred to the Poppy Project.<sup>74</sup>

The United Kingdom has continually tried to balance protection of victims against those looking to abuse asylum. A program started in 2003 offered some assistance to women that were recovered from prostitution rings and identified as trafficking victims. This assistance was directly tied into the victim's willingness to cooperate with police for evidence on traffickers and was limited to only 25 people.<sup>75</sup> This quote from the Home Office explains the balance that the UK is trying to maintain: Beverley Hughes, said: "We need to strike a fair balance between maintaining effective immigration control and also caring for these women while they are in this country. With the introduction of these

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<sup>73</sup> U.S. State Department, (2003). *2003 trafficking in persons report* (Report No. 03). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2003/index.htm>

<sup>74</sup> "About Us," Eaves charity house, accessed October 27, 2011, [http://www.eaves4women.co.uk/About\\_Us.php](http://www.eaves4women.co.uk/About_Us.php)

<sup>75</sup> Simon Parker, "Sex Slaves to be Offered Safe Houses," *The Guardian*, March 10, 2003, accessed September 15, 2011, <http://www.guardian.co.uk/society/2003/mar/10/uknews>

measures we will be able both to deal with them compassionately and assist in convicting the traffickers that brought them here.”<sup>76</sup>

During 2003, an increased effort by the police force was maintained by the initiatives Task Force Reflex and Operation Maxim. These efforts reported over 200 arrests for organized prostitution in connection with human trafficking.<sup>77</sup> The task force helped bring all of the agencies involved in combating human trafficking together including the NCS, NCIS, and other major police forces and agencies. Reflex also helped to work with regional police forces to educate them about human trafficking and the role that prostitution played in it.<sup>78</sup> This marked an increasingly different type of attempt to law enforcement for the United Kingdom. Traditionally, the decentralized nature of the United Kingdom’s affairs did not allow major operations like this to be as successful as they have become.

In addition to the increased domestic efforts that the UK initiated, it also continued to progress with its efforts in multinational and international partnerships such as the EU, the UN and the Organization for Security and Cooperation in Europe (OSCE).<sup>79</sup> Several bilateral anti-trafficking projects were established with source countries such as Bulgaria and Romania and law enforcement assistance was provided for Serbia and Montenegro. 2003 also saw an increased effort to collaborate between government and NGO representatives in regards to trafficking policies and cases occurred.<sup>80</sup>

In an effort to stymie the perception that human trafficking penalties were soft, the Sexual Offenses Act of 2003 increased possible penalties to life imprisonment for

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<sup>76</sup> Ibid.

<sup>77</sup> U.S. State Department, (2004). *2004 trafficking in persons report* (Report No. 04). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2004/index.htm>

<sup>78</sup> NC Buy, "United Kingdom Human Rights Report." Accessed October 27, 2011. <http://www.ncbuy.com/reference/country/humanrights.html?code=uk&sec=6f>.

<sup>79</sup> Ibid.

<sup>80</sup> U.S. State Department, (2004). *2004 trafficking in persons report* (Report No. 04). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2004/index.htm>

trafficking for sexual exploitation.<sup>81</sup> The tougher penalties made sexual exploitation commensurate with the penalty for rape. This new law led to some of the stiffest penalties handed down in 2004 and one of the first offenders to be prosecuted under this new law was sentenced to 18 years.<sup>82</sup>

A prioritization of human trafficking in 2005 by the United Kingdom's presidency helped to establish and produce some important steps over the next few years.<sup>83</sup> The first action taken was the United Kingdom's signing of the Council of Europe convention on Action against Trafficking in Human Beings to show its international support of anti-trafficking efforts.

Within twelve months, the Serious Organized Crime Agency was founded and a national police operation labeled Pentameter was launched. "The merging of the NCIS, National Crime Squad, and the non-tax intelligence and investigative arms of HMCE and the Immigration Service...reflects growing awareness by politicians and administrators that these historic demarcations are untenable in the light of flexible multi-crime offending patterns by at least some serious criminals."<sup>84</sup> The SOCA has provided human trafficking a national level awareness of the organized crime aspect of human trafficking second in priority only to drug trafficking.<sup>85</sup> Operation Pentameter was launched in February 2006 to tackle human trafficking with an emphasis on sexual exploitation and help to increase awareness of human trafficking to all police forces.<sup>86</sup> During this

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<sup>81</sup> U.S. State Department, (2004). *2004 trafficking in persons report* (Report No. 04). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2004/index.htm>

<sup>82</sup> U.S. State Department, (2005). *2005 trafficking in persons report* (Report No. 05). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2005/index.htm>

<sup>83</sup> "Sex slavery widespread in England." *BBC News*, March 19, 2007. [http://news.bbc.co.uk/2/hi/uk\\_news/england/6459369.stm](http://news.bbc.co.uk/2/hi/uk_news/england/6459369.stm) (accessed October 27, 2011).

<sup>84</sup> Fijnaut and Paoli, 839.

<sup>85</sup> House of Lords. "Human Trafficking." *Joint Committee on Human Rights*. I. (2006). <http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/245/245.pdf> (accessed October 27, 2011).

<sup>86</sup> Ibid.

operation, 84 women were rescued and 230 arrests were made but only ten percent of the estimated number of sex establishments were able to be raided.<sup>87</sup>

Pentameter's success in arresting criminals and rescuing trafficking victims has led to the establishment of the United Kingdom Human Trafficking Center to coordinate human trafficking efforts throughout the United Kingdom.<sup>88</sup> The United Kingdom Human Trafficking Centre was established in October of 2006 to coordinate police efforts against human trafficking and to promote the United Kingdom as a world leader in the prevention and investigation of trafficking.<sup>89</sup>

The increase in focus and initiatives from 2005 are based on the fact that eighty-five percent of women working in brothels in the United Kingdom have come from overseas. In the mid-1990s, it was eighty-five percent of the women from the United Kingdom working in the sex service industry.<sup>90</sup>

Politically in 2006, both conservative and liberal political parties were recognizing the importance of protecting modern-day slavery victims. Even though the issue of asylum abuse versus victim protection was still a concern, it was recognized that efforts must be made to provide even greater protection to victims regardless of this issue. William Hague, the Tory shadow foreign secretary, "called for greater protection of victims but stopped short of calling on the government to sign up to a convention that would allow women and children rescued from captivity a leave of stay in the UK."<sup>91</sup> Early in 2007, this issue took another step in the United Kingdom. Lewis Williamson reports that the Tories, a conservative party within the United Kingdom, have slowly

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<sup>87</sup> "Sex slavery widespread in England." *BBC News*, March 19, 2007.  
[http://news.bbc.co.uk/2/hi/uk\\_news/england/6459369.stm](http://news.bbc.co.uk/2/hi/uk_news/england/6459369.stm) (accessed October 27, 2011).

<sup>88</sup> Gilbert, A.

<sup>89</sup> "Human Trafficking Report 2005-2006," House of Commons, accessed November 30, 2011.  
<http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/245/245.pdf>

<sup>90</sup> "Sex slavery widespread in England." *BBC News*, March 19, 2007.  
[http://news.bbc.co.uk/2/hi/uk\\_news/england/6459369.stm](http://news.bbc.co.uk/2/hi/uk_news/england/6459369.stm) (accessed October 27, 2011).

<sup>91</sup> Helene Mulholland. "Tories demand more action to combat people trafficking." *The Guardian*, November 30, 2006. <http://www.guardian.co.uk/politics/2006/nov/30/conservatives.immigration> (accessed October 27, 2011).

changed their stance on human trafficking since the turn of the century.<sup>92</sup> The measures that they presented included protection of victims and temporary asylum, increased and strengthened relationships and coordination between the SOCA, and a reinforcement of the UK Human Trafficking Center.<sup>93</sup> This measure is being proposed because of the recognition of the need of a more collaborated and coherent effort.

Following the increased political harmony in 2006 and 2007, more funding was provided to help with victim protection. In 2006, a \$4.8 million (USD) grant was awarded to specialized shelters to address the issues of the 2006 U.S. State Department TiP report that victims were being turned away due to lack of facilities to care for them.<sup>94</sup> \$200K (USD) was added to this grant in 2007.<sup>95</sup>

2007 represented a lull in the amount of offenders that were handed sentences, although over 100 suspected trafficking offenders had been initiated for prosecution or had ongoing prosecutions.<sup>96</sup> To jumpstart arrests, in 2008 Pentameter II was initiated and 528 people were arrested with over \$5 million (USD) in assets seized or forfeited.<sup>97</sup> Internationally, the United Kingdom continued efforts with organizations and ratified the Council of Europe's Convention against Trafficking to help make victim protection more efficient and they also began an anti-trafficking training procedure for any United Kingdom nationals deployed abroad for peacekeeping missions.<sup>98</sup>

At the end of the decade, efforts by the United Kingdom on domestic and international cooperation have truly begun to pay dividends. Domestically, there have

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<sup>92</sup> Williamson, L.

<sup>93</sup> Ibid.

<sup>94</sup> U.S. State Department, (2008). *2008 trafficking in persons report* (Report No. 08). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2008/index.htm>

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> U.S. State Department, (2009). *2009 trafficking in persons report* (Report No. 09). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

<sup>98</sup> U.S. State Department, (2009). *2009 trafficking in persons report* (Report No. 09). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

been close to 100 trafficking offenders sentenced in from 2009 to 2010.<sup>99</sup> Bilateral efforts with France have been very encouraging and in August of 2010, French and British Police worked together to break up a human trafficking ring and arrested 26 people.<sup>100</sup> Damian Green, the immigration minister, speaking on the arrests and improved international cooperation between the UK and France stated that “secure border controls are an absolute priority if we are to put an end to abuses of the system, and prevent people from coming to the UK through illegal routes,” he said.<sup>101</sup> Although the recent financial crisis caused a specialized unit in London to be closed, causing some concern for human trafficking activists, a two year \$5.7 million (USD) grant to victim protection and sheltering has eased some of the concerns.<sup>102</sup> In January of 2011, the longest sentences to date were handed out to a trafficker of Romanian women and to two British nationals for sexual exploitation. The first was a twenty-one year sentence and the other two were nineteen year sentences. The ease of prosecution and greater sentences has been aided by the passing of the Coroners and Justice Act in 2009, which criminalized human trafficking as explicitly slavery based.<sup>103</sup> By doing this, prosecutors no longer had to prove a double intent to traffic and exploit, one of the reasons for the lulls in prosecution in 2006 and 2007.

The United Kingdoms’ efforts throughout the 2000s represented an evolution in organizational centralization, greater international cooperation, and stricter laws for combating human trafficking. Prosecution of criminals, protection of victims, cooperation with international organizations, and bilateral arrangements with other countries have evolved over the course of this past decade. Their domestic efforts in criminal prosecution and victim protection have remained the key focus for government

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<sup>99</sup> U.S. State Department, (2011). *2011 trafficking in persons report* (Report No. 11). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm>

<sup>100</sup> Matthew Taylor. "French and UK police break up human trafficking ring." *The Guardian*, August 2, 2010. <http://www.guardian.co.uk/law/2010/aug/02/france-uk-human-trafficking-arrests?INTCMP=SRCH> (accessed October 27, 2011).

<sup>101</sup> Ibid.

<sup>102</sup> U.S. State Department, (2011). *2011 trafficking in persons report* (Report No. 11). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm>

<sup>103</sup> U.S. State Department, (2010). *2010 trafficking in persons report* (Report No. 11). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm>



and non-government actors. Balancing the need to prosecute criminals, protect victims, and keep a watchful eye on those trying to abuse asylum has led to the creation of a more common approach to combating human trafficking that is starting to become more similar to other destination countries involved in the fight against human trafficking.

### C. CONCLUSION

International efforts to create a common definition and common legal frameworks helped shape the United Kingdom's handling of human trafficking. Human trafficking was not only seen as a human rights violation but also as a threat to the security of the state, increasingly related with criminal networks. Efforts against human trafficking evolved and the United Kingdom has embraced both national and international cooperation as being needed to successfully combat human trafficking. The United Kingdom must be involved heavily in European affairs, specifically the EU because there are "opportunities to unite our continent, create prosperity, peace, security and social solidarity."<sup>104</sup> "Britain with its sense of fair play, pragmatism and efficiency should be one of the leaders of this process, regaining its rightful place at the heart of the European Union. A role that many have always wanted it to play since 1973."<sup>105</sup> The rise of international cooperation for problems such as human trafficking shows the importance put on these ideas and how the United Kingdom is determined to take on a greater role for the protection of its own state and the benefit of Europe. Intense domestic efforts to coordinate intelligence and increase cooperation between organizations and collaborated international efforts continue to define the role of the United Kingdom in Europe and the fight against human trafficking.

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<sup>104</sup>"Britain's Rightful Place." *The Economist*, May 8, 1997. <http://www.economist.com/node/148952> (accessed October 27, 2011).

<sup>105</sup> Ibid.

## **IV. HUMAN TRAFFICKING IN FRANCE**

Combating human trafficking in France has taken a familiar but distinct path when compared with the United Kingdom. Much like the United Kingdom, a review of France's historical precedence in regards to slavery and human rights will be acknowledged. This historical precedence lays the foundation for how both of these countries initially approached combating human trafficking.

Although slow to accept the criminal nature of human trafficking, France eventually ratified the Palermo Protocols and began to structure their framework for combating human trafficking. One issue within France is the propensity to use old but strict prostitution and pimping laws to prosecute human traffickers. This is shown to be a problem on several levels, including data collection and prosecution of traffickers. Prostitution has a long history within France and the role that human trafficking plays in disrupting that history has led France to dealing with it in different ways.

Another issue that France deals with in regards to human trafficking is the huge immigrant population that resides in France. France constantly strives to find a balance of the protection of victims versus protecting itself from asylum abusers. Many changes in their laws reflect this attempt to maintain balance and more often than not, France has been criticized internally and externally of their victim protection programs.

Both the United Kingdom and France had to address issues with peacekeepers contributing to human trafficking in locations that they are deployed. Much like the United Kingdom, this legislation was passed towards the end of the first decade of the twentieth century. This is important because of the related policy with NATO that discusses this issue.

### **A. HUMAN TRAFFICKING AND SLAVERY LEGISLATION PRIOR TO THE PALERMO PROTOCOL**

#### **1. Human Rights Issues**

France's history of human rights advocacy can be traced back to the 18th Century with the Declaration of the Rights of Man and of the Citizen. This declaration occurred

in August of 1789 and was a direct product of the Enlightenment. Paris hosted the 1948 UN General Assembly where the Universal Declaration of Human Rights was adopted at the Palais de Chaillot.<sup>106</sup> The principal architect of the declaration was a French Nobel Peace Prize winner who had become the Chairman of the United Nations Commission on Human Rights and of the European Court of Human Rights. This is mentioned because of the importance that France puts on the image of itself to other countries.

Since the 1948 declaration, France has continually been a part of formulating the bulk of the doctrines and international instruments in the area of human rights. In the spirit of the declaration adopted at the World Conference on Human Rights held in Vienna in 1993, France believes that “promoting and protecting all Human Rights are a legitimate concern for the international community” and it gives equal consideration to civil and political rights, as well as economic, social and cultural rights, and all victims of violations of such rights. Deeply attached to the universality of Human Rights, France conducts an active policy, constantly striving to encourage concrete progress, by using the most suitable means.”<sup>107</sup>

A United States Report on French human rights efforts in 1995 recognized the immense amount of support that France has provided to the international community and their efforts in protecting human rights. The report indicates that there are a number of local and international human rights organizations that operate freely, investigating and publishing their findings on human rights cases and government officials are adept at accepting their findings and reports.<sup>108</sup> The French National Consultative commission on Human Rights (NCCHR), composed of nongovernmental as well as government members, is an independent body within the Office of the Prime Minister that monitors complaints and advises the Government on policies and legislation.<sup>109</sup>

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<sup>106</sup> France’s human rights policy. *France-diplomate*. Accessed November 29, 2011. [http://www.diplomatie.gouv.fr/en/france-priorities\\_1/democracy-human-rights\\_1101/france-human-rights-policy\\_1672.html](http://www.diplomatie.gouv.fr/en/france-priorities_1/democracy-human-rights_1101/france-human-rights-policy_1672.html)

<sup>107</sup> Ibid.

<sup>108</sup> “France Human Rights Practices, 1995,” United States Department of State, accessed November 30, 2011. [http://dosfan.lib.uic.edu/ERC/democracy/1995\\_hrp\\_report/95hrp\\_report\\_eur/France.html](http://dosfan.lib.uic.edu/ERC/democracy/1995_hrp_report/95hrp_report_eur/France.html)

<sup>109</sup> Ibid.

Through these conventions and venues that are mentioned, France has acknowledged the existence of human trafficking and the problems that exist with the violations of human rights associated with human trafficking. As mentioned in previous chapters, this early international recognition by both the United Kingdom and France of human trafficking did little to help the problems that emerge in the 1990s.

## **2. Impact of Human Trafficking and Sexual Exploitation in France**

France is a destination country for women and girls trafficked for sexual exploitation from Eastern Europe. Foreigners make up 75 percent of trafficking victims and the majority of those come from Eastern Europe and the Balkans (primarily Romania and Bulgaria).<sup>110</sup> The demand for these sexual workers is fueled mostly because of the existence of a large sexual service industry within France and the legality of prostitution in France. Because of its legality, “prostitution is one of the largest markets of the criminal economy. It was significantly industrialized in the 1950s on the basis of the exploitation of women both on the French mainland and in the colonies of North Africa and South-East Asia, and subsequently extended to the countries of northern Europe.”<sup>111</sup> Fijnaut and Paoli argue that the organized networks in France are a reflection of the international networks that were formed in the 1950s and 1960s to support prostitution within France.<sup>112</sup> During the 1970s, France enacted stiff penalties to combat criminals that were looking to exploit the profits of prostitution. Perhaps it was the establishment of these stiff penalties that restricted the French prosecution and legal system from properly using the mandated legal frameworks from the EU and the OSCE to prosecute human trafficking offenders. As human trafficking has evolved, sexual exploitation began replacing drug trafficking for the same reason in the late 1990s and into the new

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<sup>110</sup> “Report on the Effective Respect for Human Rights in France,” Council of Europe, Commissioner for Human Rights, accessed November 30, 2011.  
<https://wcd.coe.int/ViewDoc.jsp?id=965765&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>

<sup>111</sup> Fijnaut and Paoli, 367.

<sup>112</sup> Ibid.

millennium that drug trafficking replaced armed robbery in France during the 1970s; the reward highly outweighed the risk.<sup>113</sup>

The rise of foreign sexual exploitation in France impacted local sex workers after the turn of the century. In 2000, prostitutes complained about trafficked women taking their jobs, undermining what the local sex workers consider to be a legitimate business operation.<sup>114</sup> Human trafficking for sexual exploitation made such an impact that local sex workers were engaging with their representatives to discuss the issue and bring the problem to light.

The French government estimates that 10,000 to 12,000 women are victims of sex trafficking in the country and in 2007 the government identified 1,002 trafficking victims, of which 76 percent were foreigners.<sup>115</sup> There are a significant number of Romanian minors in France, many of whom are vulnerable to trafficking.<sup>116</sup>

Although the solicitation of prostitution is illegal in France, prostitution remains legal and the market for sexual exploitation remains. It is primarily for this reason that France remains a destination country for human trafficking. Because of this, an argument may be made that the abolition or complete legalization of prostitution could have a positive effect on limiting the number of people that are exploited sexually. The relationship between these two remains somewhat related and is important to point out, but their outcome should not be determined based on each other.

As discussed, France is a destination country for its involvement in the sexual exploitation of women and children but on a much smaller scale it is also considered a

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<sup>113</sup> Fijnaut and Paoli, 380.

<sup>114</sup> "French prostitutes protest to PM," *BBC News*, October 19, 2000, accessed November 30, 2011, <http://news.bbc.co.uk/2/hi/europe/979126.stm>

<sup>115</sup> European Commission. Fight against trafficking in human beings. Available online at: <http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6!-403728570?sectionId=a943bac4-ec15-4b05-b88b-4bc6ed5cebcc>

<sup>116</sup> Ibid.

transit country. Places like Calais in France are used as an enclave of safe operation for human smuggling and trafficking, many times transiting these individuals into the United Kingdom.<sup>117</sup>

## **B. POST-2000 (POST-PALERMO PROTOCOL)**

The impact of the UN Palermo Convention on France was not direct and, unlike the United Kingdom, France did not begin introducing legislation against human trafficking until it was recommended by the EU and the OSCE in conjunction with a Parliamentary Mission Report in 2001.<sup>118</sup> The UN Protocol was not ratified in France until 2002.<sup>119</sup> Part of its late acceptance of the protocol was due to the definition of the organized criminal nature of human trafficking produced by the convention. An example of France's partial support of the Palermo Convention lies within its Central Office for Repression of Illegal Immigration and Employment of Untitled Foreigners (OCRIEST) and the fact that it falls under the control of the border police (DCPAF). The Palermo Convention wanted to push countries to accept the organized criminal nature of human trafficking and help treat it as such but France has failed to make this bureau fall under the Central Directorate of the Judicial Police (DCPJ).<sup>120</sup> This is an early example of the problems that France has when combating human trafficking on a level commensurate with organized crime.

Since the Parliamentary Mission Report in 2001, a comprehensive legal framework has been developed in France to combat human trafficking but it has not been as aggressive nationally as the United Kingdom's legislation and policies were. This is due to the fact that over the past decade France has relied on old laws against prostitution and pimping for prosecuting criminals because of their strict nature, noted as late as 2006

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<sup>117</sup> Vayrynen, 13.

<sup>118</sup> European Commission. Fight against trafficking in human beings. Available online at: <http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6!-403728570?sectionId=a943bac4-ec15-4b05-b88b-4bc6ed5cebcc>

<sup>119</sup> "France and the fight against trafficking in human beings," Directorate-General of Global Affairs, accessed November 30, 2011, [http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains\\_\\_v\\_anglaise.pdf](http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains__v_anglaise.pdf)

<sup>120</sup> Fajinaut and Paoli, 778.

and 2007.<sup>121</sup> One downfall of this is that no reliable data is collected linking human trafficking, sexual exploitation, and organized crime to help prove to law enforcement the severity of the criminal nature of human trafficking.<sup>122</sup>

## **1. Chronology of Legislation and Policies Instituted**

Even with France's esteemed history in regard to human rights, France has been slow to recognize the dangers of the criminal nature that human trafficking festers. In its first report on human trafficking, the U.S. State Department ranked France as a Tier 2 institution in the combat of human trafficking, the United Kingdom was ranked Tier 1 in the same report.<sup>123</sup> This report noted the lack of specific laws against human trafficking and the lack of articulated protection programs for victims. Victims in France are many times not treated as such and are often treated as illegal immigrants and jailed or detained for information and then deported.<sup>124</sup> Although the human rights elements of human trafficking have been recognized in France, their protection of victims has been lacking.

One advantage that France had in centralizing its efforts against human trafficking was the existence of the Central Office for the Repression of Trafficking in Humans (OCRTEH), an institution that had been created in 1958 to handle trafficking cases for sexual exploitation and prostitution. As noted earlier, a disconnect exists between this office and law enforcement because many of the possible trafficking victims and offenders were being prosecuted under different laws that did not include the OCRTEH. This disconnect has negatively impacted the local and national police forces' abilities to affectively combat human trafficking through the OCRTEH.

Substantial efforts were made by France in 2002 to combat human trafficking and attack the criminal aspects of human trafficking. A heavy emphasis was given to

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<sup>121</sup> U.S. State Department, (2007). *2007 trafficking in persons report* (Report No. 07). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2007/index.htm>

<sup>122</sup> Fijnaut and Paoli, 357.

<sup>123</sup> For more information on the U.S. State Department tier evaluation system, visit <http://www.state.gov/g/tip/rls/tiprpt/>

<sup>124</sup> U.S. State Department, (2001). *2001 trafficking in persons report* (Report No. 01). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2001/index.htm>

international cooperation, along with some national initiatives. France participated in an EU combined effort to attack human trafficking, working with Europol and several other countries' police forces in which over eighty people were arrested throughout Europe.<sup>125</sup> An official from Eurojust was quoted as saying, "This was another major step in the fight against organised crime and demonstrated the important added value Eurojust can offer helping to deal with organised criminal networks, operating across the European Union and beyond."<sup>126</sup>

France and Switzerland created a joint customs and police center in Geneva to combat cross-border crime and France continued to fund EU programs and others through the ministry of Foreign Affairs.<sup>127</sup> A main concern in 2002, was the link between France and Romania that was bringing in a large percentage of women and children to work as prostitutes and beggars in France.<sup>128</sup> Through fear of losing its newly acquired mobility within the EU, the Romanian social democrat government worked hand in hand with France to take the necessary steps to reduce the influx of trafficking victims.<sup>129</sup> The Parliamentary Commission that had been created in 2001 continued to work on recommendations and proposals to tackle trafficking, inviting government and non-government actors to provide consultations on legislation and specific penal codes.<sup>130</sup>

The first legislation to address human trafficking explicitly was passed in 2003. The 2003 Domestic Security Law prohibits trafficking for sexual exploitation and set up

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<sup>125</sup> "Eighty held in sex-trafficking swoop." *BBC News*, October 2, 2002. <http://news.bbc.co.uk/2/hi/europe/2293947.stm>

<sup>126</sup> The European's Judicial Cooperation Unit. Successful co-ordination in action against trafficking in human beings. Available online at: [http://www.eurojust.europa.eu/press\\_releases/2005/15-12-2005.htm](http://www.eurojust.europa.eu/press_releases/2005/15-12-2005.htm)

<sup>127</sup> U.S. State Department, (2002). *2002 trafficking in persons report* (Report No. 02). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2002/index.htm>

<sup>128</sup> Eugen Tomiuc. "Romania: France agrees to joint action against human trafficking." *Radio Free Europe*, September 3, 2002. [www.walnet.org/csis/news/world\\_2002/rfe-020903.html](http://www.walnet.org/csis/news/world_2002/rfe-020903.html)

<sup>129</sup> Ibid.

<sup>130</sup> U.S. State Department, (2002). *2002 trafficking in persons report* (Report No. 02). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2002/index.htm>



specific punishments for human trafficking offenders.<sup>131</sup> This law also provided provisions to help improve victim assistance programs. France also participated in a bilateral investigation with Russia which led to two major Russian mafia leaders being indicted on charges related to international trafficking.<sup>132</sup> The U.S. State Department reported in its 2004 TiP Report that a rise in arrests for trafficking offenses was greatly enhanced by the newly passed 2003 legislation. From March 2003 to March 2004 709 people were arrested; this included the organizers of 32 trafficking rings, 15 of which were considered large-scale prostitution rings.<sup>133</sup> Funding for specialized anti-trafficking police units were also increased during this timeframe. One major item of note was the amount of international effort provided through the EU by France. From 2003 to 2004, France heavily invested in cooperating in the EU by conducting information campaigns, seminars, bilateral police training programs, and assignment of criminal liaison officers throughout Europe to identify trafficking networks.<sup>134</sup>

The spike in human trafficking arrests and the impact of the 2003 legislation for combating human trafficking was greatly criticized in 2005 for its lack of effectiveness in the French anti-trafficking efforts. After an initial push to prosecute traffickers under this new law and a subsequent rise in arrests for human trafficking, French prosecutors fell back on prosecuting offenders based on old laws and the harm done to the victims under this legislation and quickness to deport victims was quickly identified by international organizations.<sup>135</sup> Although national efforts were being attacked, France's international cooperation continued to blossom. France continued its bilateral police efforts

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<sup>131</sup> European Commission. Fight against trafficking in human beings. Available online at: <http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6!-403728570?sectionId=a943bac4-ec15-4b05-b88b-4bc6ed5cebcc>

<sup>132</sup> U.S. State Department, (2003). *2003 trafficking in persons report* (Report No. 03). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2003/index.htm>

<sup>133</sup> U.S. State Department, (2004). *2004 trafficking in persons report* (Report No. 04). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2004/index.htm>

<sup>134</sup> Ibid.

<sup>135</sup> U.S. State Department, (2005). *2005 trafficking in persons report* (Report No. 05). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2005/index.htm>

throughout Europe and took a leadership role in a commission that brought 13 European countries together in an effort to encourage regional cooperation among police, NGOs, and international organizations.<sup>136</sup>

France has continued to be an active partner in ECPAT, “a global network of organisations and individuals working together for the elimination of child prostitution, child pornography and the trafficking of children for sexual purposes. It seeks to encourage the world community to ensure that children everywhere enjoy their fundamental rights free and secure from all forms of commercial sexual exploitation.”<sup>137</sup> In 2005 and 2006, France participated in the ECPAT Europe Law Enforcement Group’s Joint East-West Multi-Stakeholder Training Programme on Trafficking in Children for Sexual Purposes. France’s partner in this initiative was Romania and France provided training of law enforcers and caregivers within Romania.<sup>138</sup>

The French National Consultative Commission on Human Rights (NCCHR or CNCDH), which reviews and examines the implementation of the recommendations made to France by international organizations, provided a report about French provisions to international law on human trafficking that called for France to increase penalties onto those that exploit and traffic and that France should change their laws to better accommodate international law in 2005.<sup>139</sup> This French Commission is noted for working very closely with the Council of Europe and the OSCE but its ties with the European Union are weak.<sup>140</sup>

In 2006, the Council of Europe produced a report outlining the failures and problems of French criminal legislation in combating human trafficking. This report used the outcome of *Siliadin v. France* in July of 2005 as an example. In this case, the

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<sup>136</sup> U.S. State Department, (2005). *2005 trafficking in persons report* (Report No. 05). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2005/index.htm>

<sup>137</sup> “Vision and Mission,” ECPAT, accessed November 30, 2011, [http://www.ecpat.net/EI/Ecpat\\_vision.asp](http://www.ecpat.net/EI/Ecpat_vision.asp)

<sup>138</sup> “Annual Report 2005-2006,” ECPAT International, accessed November 30, 2011, [http://www.ecpat.net/EI/Publications/Annual\\_Reports/ECPAT\\_Annual\\_Report2005-2006.pdf](http://www.ecpat.net/EI/Publications/Annual_Reports/ECPAT_Annual_Report2005-2006.pdf)

<sup>139</sup> “What is CNCDH,” The French National Consultative Commission on Human Rights, accessed November 30, 2011, [http://www.cncdh.fr/rubrique.php3?id\\_rubrique=132](http://www.cncdh.fr/rubrique.php3?id_rubrique=132)

<sup>140</sup> Ibid.

European Court of Human Rights ruled that slavery and servitude were not rendered illegal in French criminal law which violated Article IV of the European Convention on Human Rights.<sup>141</sup> Alvaro Gil-Robles writes that “the Court reminded France of its obligation to strengthen its legislation stemming from the Law of 18 March 2003, whose aims are to render illegal and punish any instance of slavery and forced labour.”<sup>142</sup>

While France was dealing with its domestic law issues, they continued to shine in international efforts. France has remained an active participant in the Working Group on Trafficking in Person set up by the UNODC.<sup>143</sup> This organization was established to promote the effective application of the Palermo Protocol. France also became a member and supporter of the United Nations Global Initiative to Fight Human Trafficking (UNGIFT) in 2007, which was developed to ensure coordination of international organizations implemented actions.<sup>144</sup>

In 2007, the CNCDH’s legal basis to exist was updated. Previously the Commission was established by decree only. Establishing it by law was done to put the Commission in conformity with the Paris Principles which state that “A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text.”<sup>145</sup> The law was only recently adopted, at the time when the Commission was going through the reaccreditation process before the International Coordinating Committee (sub-committee on accreditation) in 2007.<sup>146</sup>

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<sup>141</sup> Council of Europe, Report from Mr Alvaro Gil-Robles, Commissioner for Human Rights, on the effective respect for Human Rights in France, following his visit from 5 to 21 September 2005. February 2006. Accessed from:

<https://wcd.coe.int/ViewDoc.jsp?id=965765&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogge>

d=FFC679

<sup>142</sup> Ibid.

<sup>143</sup> “France and the fight against trafficking in human beings,” Directorate-General of Global Affairs, accessed November 30, 2011, [http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains\\_\\_v\\_anglaise.pdf](http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains__v_anglaise.pdf)

<sup>144</sup> Ibid.

<sup>145</sup> “What is CNCDH,” The French National Consultative Commission on Human Rights, accessed November 30, 2011, [http://www.cncdh.fr/rubrique.php3?id\\_rubrique=132](http://www.cncdh.fr/rubrique.php3?id_rubrique=132)

<sup>146</sup> Ibid.

This organization needed updating due to the attacks that France garnered from international organizations about its victim protection programs and the quick deportation of human trafficking victims.

The 2007 U.S. State Department TiP Report indicates that France continued successful law enforcement cooperation with Bulgaria and Romania, an indication of France's almost constant success with bilateral arrangements. While working bilaterally with Bulgaria, France was able to break up a human trafficking ring and extradite five Bulgarian men based on a European Union warrant.<sup>147</sup> France was also able to save fourteen Bulgarian women who had been sexually exploited and track the large sums of money that had been deposited into Bulgarian banks.<sup>148</sup> Another international move by France was the increasing of specific anti-trafficking police assigned to French embassies. Due to the success of tracking human trafficking rings, France doubled the number of these police from six to twelve.<sup>149</sup>

In 2008, France responded to critiques about its use of anti-pimping laws instead of anti-trafficking provisions to prosecute offenders by amending the 2003 Domestic Security Law. These amendments prescribed much harsher penalties to trafficking for sexual exploitation, making them commensurate with other grave crimes such as rape.<sup>150</sup> Changes were also made to their victim protection programs. No longer were victims immediately prepped for deportation or deported. They are now given a six month reflection period and those that choose to participate in criminal proceedings are given a

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<sup>147</sup> "Bulgaria to extradite human trafficking suspects." *Expatica.com*, April 12, 2007.  
[http://www.expatica.com/fr/news/local\\_news/bulgaria-to-extradite-human-trafficking-suspects-38693.html](http://www.expatica.com/fr/news/local_news/bulgaria-to-extradite-human-trafficking-suspects-38693.html)

<sup>148</sup> "Bulgaria, France break up women trafficking ring." *Expatica.com*, June 25, 2008.  
[http://www.expatica.com/fr/news/local\\_news/Bulgaria\\_-France-break-up-women-trafficking-ring.html](http://www.expatica.com/fr/news/local_news/Bulgaria_-France-break-up-women-trafficking-ring.html)

<sup>149</sup> U.S. State Department, (2007). *2007 trafficking in persons report* (Report No. 07). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2007/index.htm>

<sup>150</sup> European Commission. Fight against trafficking in human beings. Available online at: <http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6!-403728570?sectionId=a943bac4-ec15-4b05-b88b-4bc6ed5cebcc>

renewable six month residence permit.<sup>151</sup> This helped to bring in line French national laws with the mandates provided by the OSCE and the EU.

Much like the United Kingdom in 2008, France also began a program of providing anti-trafficking training to troops that were being deployed as peacekeepers.<sup>152</sup> The U.S. State Department's 2008 TiP Report noted that number of Eastern European sex trafficking victims were falling in France due to their increased bilateral efforts and international cooperation. France's forward thinking with bilateral agreements led to a 2008 creation of a joint anti-trafficking unit with Belgian law enforcement counterparts.<sup>153</sup> This arrangement was the first of its kind in the EU and showed a new type of dedication to combating human trafficking. An initiative such as this cannot be understated. A state gives up a piece of its sovereignty whenever it decides to give another state equal power in executing laws against a certain crime within its own borders. This program proved its worth by successfully dismantling 14 international networks in 2009 completely reliant on conducting joint investigations and prosecuting cases across borders.<sup>154</sup>

The United Nations Global Plan of Action to Combat Trafficking in Persons was launched in 2010 to support and protect victims of human trafficking. France has been a

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<sup>151</sup> European Commission. Fight against trafficking in human beings. Available online at: <http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6!-403728570?sectionId=a943bac4-ec15-4b05-b88b-4bc6ed5cebcc>

<sup>152</sup> U.S. State Department, (2008). *2008 trafficking in persons report* (Report No. 08). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2008/index.htm>

<sup>153</sup> U.S. State Department, (2009). *2009 trafficking in persons report* (Report No. 09). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

<sup>154</sup> U.S. State Department, (2010). *2010 trafficking in persons report* (Report No. 10). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm>

contributor since its inception and contributes to the trust fund that was setup to assist victims.<sup>155</sup> This is in addition to the \$14.7 million (USD) that France allocated for victim support in 2009.<sup>156</sup>

In 2011, France has followed the United Kingdom's example by drafting a parliamentary report that makes the solicitation of prostitution illegal.<sup>157</sup> Although there is active dissidence against this draft, the majority view is that clients of prostitution are supporting criminal networks and gangs second hand by participating in prostitution. This is especially true in France now that it is estimated that ninety percent of all prostitutes are foreigners.<sup>158</sup> Another piece of legislation that France has adopted is directive 2011/36/EU on combating trafficking in human beings, replacing the 2002 framework decision.<sup>159</sup>

### C. CONCLUSION

The evolutions of French practices towards combating human trafficking are similar to that of the United Kingdom but differ in several key areas. The United Kingdom recognized and adopted better measures for victim protection much earlier than the French and even today France is criticized for its treatment of human trafficking victims. In its 2010 Trafficking in Persons Report, the U.S. State Department was still recommending a victim-centered approach to trafficking in France.<sup>160</sup> In 2008, France developed its victim protection policies to be more commensurate with the recommendations of the OSCE allowing for a 6-month grace period for victims to be

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<sup>155</sup> "France and the fight against trafficking in human beings," Directorate-General of Global Affairs, accessed November 30, 2011, [http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains\\_\\_v\\_anglaise.pdf](http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains__v_anglaise.pdf)

<sup>156</sup> U.S. State Department, (2009). *2009 trafficking in persons report* (Report No. 09). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm>

<sup>157</sup> "Prostitutes' clients face fines." *The Connexion*, April 14, 2011. [http://www.connexionfrance.com/news\\_articles.php?id=2669](http://www.connexionfrance.com/news_articles.php?id=2669)

<sup>158</sup> Ibid.

<sup>159</sup> "France and the fight against trafficking in human beings," Directorate-General of Global Affairs, accessed November 30, 2011, [http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains\\_\\_v\\_anglaise.pdf](http://www.diplomatie.gouv.fr/fr/IMG/pdf/FR-TraiteEtresHumains__v_anglaise.pdf)

<sup>160</sup> U.S. State Department, (2010). *2010 trafficking in persons report* (Report No. 10). Retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2010/index.htm>

granted asylum in France. This type of wrangling with victim protection versus asylum abuse has been apparent in French policies since human trafficking prosecution began in the late 1990s.

Although the United Kingdom did have some examples of prosecution of human trafficking using old laws instead of the new anti-trafficking specific laws, this occurs nowhere near the magnitude that it does in France. For France, it was not until late 2008 that that France boosted its 2003 security law to stiffen the penalties related with human trafficking offences. This was done to not only help stop the use of pimping and prostitution laws but to also aid in the collection of data of human trafficking offenses and victim identification.

France's role in peacekeeping missions into the Balkans and other deployment areas required the identification and acknowledgement of its officials and soldiers contributing to the sex industry and the effect that this had on human trafficking. Like the United Kingdom and other countries involved in these missions, a focus was needed in training these officials to keep from participating and also recognizing possible human trafficking networks.

The problems represented in France and how they have addressed them allow the study of problems that exist with correctly policing and identifying human trafficking issues. By dissecting their evolution in France, a good idea of what may exist in other countries in Europe is presented.

## V. EUROPEAN SECURITY INSTITUTIONS

As discussed with the United Kingdom and France, state activities and legislation have evolved to control or combat human trafficking. Transnational efforts and the use of international organizations are needed to better combat human trafficking, and both of these countries have recognized this. The European Union, the OSCE, NATO, the United Nations, and the International Organization for Migration (IOM) are a few of the several organizations that have aided the struggle against human trafficking by their initiatives and policies. Each of these institutions helps provide a part of the desired convergence of approaches of human rights protection and organized crime policing in the overall combating of human trafficking. This chapter will examine the roles of these institutions and how they have approached the combat of human trafficking. Their initiatives are assumed to contain the influence and interests of both France and the United Kingdom due to their active participation in these institutions.

Nieuwenhuys mentions the IOM and states that along with the IOM and governments in both sending and receiving countries, anti-trafficking initiatives are taken by various UN agencies, the European Commission, the Council of Europe, Interpol, the OSCE, and regional organizations.<sup>161</sup> The cooperation and efforts of these organizations are vital to the security initiatives in the region. The need for international cooperation in security and governance is discussed by Friesendorf. His argument maintains that individual states do not have the ability to address problems that operate and exist outside of their own borders. By incorporating and coordinating the efforts of NGOs, private businesses, governments, and international organizations, a better system of “complex security governance” will be created to properly combat human trafficking.<sup>162</sup>

In 2000, the UN adopted the Palermo Protocol that specifically discussed and laid down the groundwork for governance to combat human trafficking. The Protocol to

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<sup>161</sup> Nieuwenhuys & Pécoud, 1678.

<sup>162</sup> Friesendorf, 383–4.



Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was adopted due to the international recognition of human trafficking as a security issue and human rights violation.<sup>163</sup>

The International Organization for Migration (IOM) has taken the lead in information dissemination in Eastern Europe. These information campaigns are considered vital in fighting trafficking by increasing awareness of the danger of being caught in criminal networks and by reducing vulnerability to human trafficking. The EU has provided funding to the IOM to establish Centers for Migrant Advice in Ukraine and the Czech Republic, thus recognizing the importance of information dissemination.<sup>164</sup>

The IOM also runs programs to help migrants successfully reintegrate into their native country. It contributes to their reintegration through medical, psychological, and legal help: family and housing allowances; education grants; and microenterprise training and grants.<sup>165</sup> This is an important part of the combat against human trafficking. Numerous examples have highlighted that victims are many times arrested for prostitution or illegal migration and not offered the services they so desperately need to reintegrate back into society. Many times victims are only offered protection due to their potential to be witnesses and the hope that their testimonies might lead to the imprisonment of traffickers who threaten state security by challenging state borders.<sup>166</sup> The addition of different actors to the efforts to combat human trafficking in recent years is a very positive sign. International organizations, UN agencies, NATO, the EU, the OSCE, and the Council of Europe have all joined in the fight. The formulation, implementation, and promotion of anti-trafficking programs that are effective across all borders are very important.

The different motivations to combat human trafficking are apparent in the different apparatus involved. Governments and state actors many times are more

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<sup>163</sup> “United Nations Convention against Transnational Organized Crime and its Protocols,” UNDOC, accessed November 30, 2011, <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

<sup>164</sup> Nieuwenhuys & Pécoud, 1681.

<sup>165</sup> Ibid., 1685.

<sup>166</sup> Pajnik, M. (2010). Media framing of trafficking. *International Feminist Journal of Politics*, 12(1): 58

concerned about state borders and the link that human trafficking has to organized crime, thus increasing the threat to state security. As pointed out, human trafficking is linked to organized crime and is also associated with, such as money laundering, drug trafficking, the illegal weapons trade, and the worries about terrorist financing.<sup>167</sup>

Friesendorf argues that “many NGOs, in contrast, emphasize that human trafficking is a serious human rights violation, and that a focus on organized crime and illegal migration is inappropriate. International organizations play a prominent role in anti-trafficking not least because of significant funding opportunities.”<sup>168</sup>

Last, and as mentioned in previous chapters, moral outrage over sexual slavery and prostitution has contributed to pushing human trafficking onto the international agenda. State actors that are concerned with border control and organized crime have advocated stricter border control and laws about migration. An increase on the restrictions to migration has the possibility of increasing illegal migration, thus increasing the vulnerability of possible victims and their exposure to abuse.<sup>169</sup> A snowball effect would then ensue, increasing the likelihood of victims of human trafficking. This discussion of border controls and immigration laws makes the following organizations key to the fight against human trafficking.

The OSCE and the European Union are the most important players in this growing transnational fight against human trafficking within Europe. Cindy Fazey argues that the power to enforce policy does not exist by many international organizations and the need to facilitate cooperation, provide common training, and secure political commitments drives their focus.<sup>170</sup> Although persuasion and pressure remain the key areas of powers to get countries to follow international policy, the European Union and OSCE have certain powers that make them much more valuable to Europe in

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<sup>167</sup> Friesendorf, Cornelius. 2007. Pathologies of security governance: Efforts against human trafficking in Europe. *Security Dialogue* 38 (3) (SEP): 382

<sup>168</sup> Ibid.

<sup>169</sup> Pajnik, M. (2010). Media framing of trafficking. *International Feminist Journal of Politics*, 12(1): 54

<sup>170</sup> Cindy Fazey, International Policy on Illicit Drug Trafficking: The formal and Informal Mechanisms, 757–759

combating human trafficking and the establishment of state policies. Other organizations to be discussed such as NATO and the Council of Europe provide examples of organizations that cannot enforce policy but still possess some tools to help with the total convergence of the tools needed to combat human trafficking.

#### **A. THE COUNCIL OF EUROPE**

The first institution in Europe that is important to review is The Council of Europe. It is a human rights organization that seeks to develop common and democratic principles throughout Europe based on the European Convention on Human Rights.<sup>171</sup> As noted in the beginning of Chapters III and IV, the United Kingdom and France were both participants in this convention and remain devoted to the ideals set forth by it. The Council of Europe views human trafficking as a heinous abuse of human rights and they continue to approach the combat of human trafficking in this light.

The Council of Europe reports that they have been involved in combating human trafficking as far back as 1991 where a Seminar on Action Against Trafficking in Women, considered human trafficking as a violation of human rights and human dignity, was organized by the Council of Europe.<sup>172</sup> Based on their work in the early 1990s, the Council of Europe identified the most urgent areas for action and proposed a plan for “areas for reflection and investigation in view of making recommendations to the member states on legislative, judicial and punishment aspects of trafficking; on assisting, supporting and rehabilitating its victims and on prevention programmes.”<sup>173</sup> These were the first efforts to appear in Europe and their approach is obviously victim oriented.

In 2005, the Committee of Ministers adopted The Council of Europe Convention on Action against Trafficking in Human Beings that provided a comprehensive and coherent framework covering prevention, cooperation between different actors, protection of and assistance to victims, and an obligation to criminalize trafficking in

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<sup>171</sup> “Who we are,” Council of Europe, accessed November 30, 2011, <http://www.coe.int/aboutCoe/index.asp?page=quisommesnous&l=en>.

<sup>172</sup> “Council of Europe’s action to combat trafficking in human beings,” Council of Europe, accessed November 30, 2011, <https://wcd.coe.int/ViewDoc.jsp?id=1303549>.

<sup>173</sup> Ibid.

human beings.<sup>174</sup> The convention recognized the need for criminalization of human trafficking, a common theme in 2005, but is mostly based on victim protection and the human rights abuses that victims of human trafficking are subjected to. “The Council of Europe Convention is the first international legally binding instrument which affirms that trafficking in human beings constitutes a violation of human rights and is an offence to the dignity and integrity of the human being. It applies to all victims of trafficking: women, men and children.”<sup>175</sup>

The Council of Europe has worked with both the OSCE and the EU in areas of victim protection and getting its recommendations for legislation included in the framework decisions and mandates produced by the OSCE and the EU. The Council of Europe is an important organization to understand because of the first steps it took to protect victims of human trafficking. As legislation and policy has grown in Europe, the see-saw between the two approaches I have discussed is apparent. Finally towards the end of the previous decade, a convergence of these two approaches is appearing.

## **B. OSCE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE**

The OSCE is the world’s largest regional security organization in the world comprising of 56 states from Europe, Central Asia and North America. “The OSCE has a comprehensive approach to security that encompasses politico-military, economic and environmental, and human aspects. It therefore addresses a wide range of security-related concerns, including arms control, confidence and security-building measures, human rights, national minorities, democratization, policing strategies, counter-terrorism and economic and environmental activities.”<sup>176</sup>

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<sup>174</sup> European Commission, COM (2010)95 Final. 2010/0065/ (COD). Proposal for a Directive of the European Parliament And of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA

<sup>175</sup> “Council of Europe’s action to combat trafficking in human beings,” Council of Europe, accessed November 30, 2011, <https://wcd.coe.int/ViewDoc.jsp?id=1303549>.

<sup>176</sup> “Who we are,” Organization for Security and Co-operation in Europe, accessed November 30, 2011, <http://www.osce.org/who>.

The severity of the threat to security that human trafficking entailed did not come about until after the turn of the century within the OSCE. Starting in 2001, the OSCE's efforts to combat human trafficking began proceed very rapidly. The Reference Guide for Anti-Trafficking Legislative Review was published in 2001 and aimed at setting up a framework for comprehensive anti-trafficking legislation in order to assist law and policy makers within the OSCE region in their efforts to adopt or review anti-trafficking legislation.<sup>177</sup> This was a recognition for the need of states to have common legal grounds to prosecute human trafficking offenders. This reference guide is also a valuable tool for NGOs in their advocacy work seeking to improve anti-trafficking legislation, whether it be for victim protection or prosecution of offenders.<sup>178</sup>

Also in 2001, the OSCE Ministerial Council in its Decision No. 6 called on participating States to sign and ratify the United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.<sup>179</sup> This decision helped to apply pressure to some states that were slow to ratify the Protocols such as France, who as mentioned did not wholly support the organized crime and criminal nature attached to the combat of human trafficking.

In 2003, the OSCE continued its efforts in coordinating between States by passing the OSCE Action Plan against Trafficking in Human Beings. This action plan aimed to provide States with a follow-up mechanism which will also promote co-ordination between individual participating States, both within the OSCE structures and with other international organizations.<sup>180</sup> It adopted a multidimensional approach to combating

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<sup>177</sup> OSCE/ODIHR, Reference Guide for Anti-Trafficking Legislative Review. With particular emphasis on South Eastern

Europe. 2001.

<sup>178</sup> OSCE/ODIHR, Reference Guide for Anti-Trafficking Legislative Review. With particular emphasis on South Eastern

Europe. 2001.

<sup>179</sup> OSCE Action Plan against Trafficking in Human Beings. July, 2003, accessed November 30, 2011, <http://www.osce.org/pc/42708>.

<sup>180</sup> OSCE Action Plan against Trafficking in Human Beings. July, 2003, accessed November 30, 2011, <http://www.osce.org/pc/42708>.

trafficking in human beings that would address the problem comprehensively, covering protection of victims, the prevention of THB and the prosecution of those who facilitate or commit the crime.<sup>181</sup> The plan included recommendations to States and relevant OSCE institutions, bodies and field operations on the best way to deal with political, economic, legal, law enforcement, educational and other aspects of the problem.<sup>182</sup>

In 2005, several reports from the OSCE still discussed the importance of coordinated efforts in police training, information awareness campaigns, and victim protection. The OSCE constantly preached the vitality of cooperation between NGOs, government organizations and international institutions.

From 2005 to 2008, the OSCE's aims and recommendations continued to lean towards the criminal aspect of human trafficking, although it also included provisions for victim protection. In 2008, the OSCE enhanced its stance on the cooperation of criminal prosecution and law enforcement interactions. In Decision No. 5/08, the OSCE "calls for increased co-operation by national law enforcement and prosecution agencies with relevant international bodies, including Interpol and Europol, and with the law enforcement agencies of other participating States."<sup>183</sup> By pushing for this cooperation, the OSCE was able to help develop the inter-functionality of individual state actors and help erase confusion on what constituted the criminal aspect of human trafficking.

The security based view of human trafficking and the need for increased law enforcement and judicial security shifted in the OSCE's 2010 report on human trafficking. All of the items that were previously recommended to include international cooperation, information awareness, and comprehensive judicial and legislative measures remained as part of the policy implications but a new strategy has been suggested that looks at human trafficking through the lens of a business, market and process perspective. In this report, the OSCE is adamant about the severe human rights abuses that human

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<sup>181</sup> OSCE Action Plan against Trafficking in Human Beings. July, 2003, accessed November 30, 2011, <http://www.osce.org/pc/42708>.

<sup>182</sup> Ibid.

<sup>183</sup> "Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach," OSCE, December 5, 2008, accessed November 30, 2011, <http://www.osce.org/mc/35482>.

trafficking entails and that “a victim-centered approach should be at the heart of every law, policy decision, and criminal investigation.”<sup>184</sup>

This evolution within the OSCE is common with what occurred within the United Kingdom and France. The correct balance between protecting human rights and ensuring state security has been a constant struggle with state and international actors. Much like the United Kingdom and France, the OSCE has realized the need to effectively protect both human rights and state security. By allowing for and incorporating a victim-centered approach in its latest report, the OSCE has recognized the need for a convergence of approaches for combating human trafficking and the problems that occur if one approach is preferred over the other.

### **C. EUROPEAN UNION**

Since 1992 and the ratification of the Maastrich treaty, the European Union has projected a path that includes more security bound approaches to combating human trafficking. Europol was setup by the EU after the Maastricht Treaty of 1992 and began operating in The Hague in 1999, arguably because of their reaction to the poor performance of Interpol and the fact that they are seeking to establish the EU’s own identity in every police area.<sup>185</sup> Europol is the European Union law enforcement organization that handles criminal intelligence; operating on a budget of 63.4 million Euros, greater than that of Interpol, indicating the importance of combating organized, transnational crime.<sup>186</sup>

Another example of their affinity for security over human rights protection is Council Joint Action 96/748/JHA 16 December 1996 that extended the mandate given to the Europol Drugs Unit to combat human trafficking. Cindy Fazey argues that “the growing concern of all these organizations to be more effective against trafficking arises from the recognition that drug trafficking is frequently linked to other serious crimes such

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<sup>184</sup> “Policy Implications and a Comprehensive Approach to Combating Human Trafficking From a Business, Market and Process Perspective,” OSCE, accessed November 30, 2011, <http://www.osce.org/cthb/69021>.

<sup>185</sup> Fazey, 765.

<sup>186</sup> Ibid., 769

as people smuggling, organized prostitution, and travel-document counterfeiting.”<sup>187</sup> This connection has caused the EU to act accordingly in the passing of its frameworks decisions in regards to human trafficking and the criminal nature that it represents.

The European Union remains one of the most important institutions in combating human trafficking based on a criminal approach in Europe due to their extended power and early work in indentifying and pushing the agenda for combating human trafficking. The EU first began to take some initiatives, along with NGOs, regarding trafficking in human beings in the 1990s. In 1996, the first major study of trafficking was conducted by the Commission, and since then the EU has been taking action against the phenomenon mainly under Title VI (Provisions on Co-operation in the Fields of Justice and Home Affairs) of the Treaty on European Union.<sup>188</sup>

As early as February 1997, the Council adopted a joint action to combat the trafficking of human beings and sexual exploitation of children (97/154/JHA) realizing the detriment that human trafficking played in the stability of Europe.”<sup>189</sup> Ratification of the Treaty of Amsterdam entrusted the EU with the power to adopt framework decisions for the purpose of ensuring the commonality of national laws.<sup>190</sup> By increasing the commonality of these laws, the EU was encouraging the inter-state cooperation necessary for effectively combating human trafficking on a transnational level.

Council Framework Decision 2002/629/JHA was passed in July of 2002 to approximate the laws of the member states in the area of police and judicial cooperation in criminal matters relating to the fight against Trafficking in Human Beings. This Framework Decision helped to complement the Council Joint Action 96/700/JHA passed in November 1996. Framework Decision (FD) 2002/629/JHA was adopted “as a

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<sup>187</sup> Fazey, 756.

<sup>188</sup> Obokata, T. (2003). EU council framework decision on combating trafficking in human beings: A critical appraisal. *Common Market Law Review*, 40(4), 917-917-936. Retrieved from <http://search.proquest.com/docview/220271276?accountid=12702>

<sup>189</sup> Vayrynen, 9.

<sup>190</sup> Obokata, T.



response to a generally perceived need to address the serious criminal offence of trafficking in human beings at the EU level”<sup>191</sup>

This was a step forward for the creation of a common EU approach to trafficking of human beings, as the Framework Decision provides for a common definition and penalties. The protection of victims included in the Framework Decision also contributes to this aim, since the ways in which victims are protected vary among Member States.<sup>192</sup> Trafficking in human beings was also included in the list of crimes which give rise to surrender pursuant a European arrest warrant in accordance with Council Framework Decision 2002/584/JHA on the European arrest warrant<sup>193</sup> No longer did states have to rely on extradition of a criminal, thus speeding up the process for being able to prosecute suspected offenders of human trafficking.

A theme that was common in development of legislation in the United Kingdom and France was the low risk high reward aspect of human trafficking. In 2005, the Council discusses this same problem maintaining that human trafficking has to be converted from a low risk and high reward enterprise for organized crime into a high risk and low reward one. It states that “law enforcement must use all the resources and capacity available to enforce the prohibition of human trafficking, to deprive it of any economic advantage and, where financial gain has been made, to seize and confiscate any assets and that the investigation of human trafficking should be afforded the same priority as other areas of organised crime in that specialist investigative techniques and disruption strategies should be employed.”<sup>194</sup>

In 2008, the EU passed Council Framework Decision 2008/841/JHA which helped to define cross-border crime and criminal organizations and to help the process of

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<sup>191</sup> European Commission, COM (2010)95 Final. 2010/0065/ (COD). Proposal for a Directive of the European Parliament And of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA

<sup>192</sup> Obokata, T.

<sup>193</sup> Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002)

<sup>194</sup> Communication from the Committee to the European Parliament and the Council. *Fighting trafficking in human beings*. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0514:FIN:EN:PDF>

combating these cross-borders crimes. In 2010, Directive 2010/0065 (COD) was passed that “adopts a broader concept of what should be considered trafficking in human beings than under Framework Decision 2002/629/JHA and therefore includes additional forms of exploitation.”<sup>195</sup> It states that “those responsible for investigating and prosecuting such offences should also have access to the investigative tools used in organized crime or other serious crime cases such as interception of communications, covert surveillance including electronic surveillance, monitoring of bank accounts and other financial investigations.”<sup>196</sup>.

Unlike the cases of the United Kingdom, France, and the OSCE, the EU has maintained a security approach to combating human trafficking since it began passing directives to address the issue. Their focus on legislative policies and judicial power speak to the importance that the EU has on security stability within its borders. This focus on the criminal aspect of human trafficking by the EU allows for other organizations within Europe to focus on the human rights violations and approaches to combating human trafficking that focus on victim protection.

#### **D. NATO**

A final institution reviewed as a part of the international organizations in Europe is NATO. NATO is a very much a side seat driver when it comes to the problems associated with human trafficking. NATO has not involved itself in the security aspect or victim protection of human trafficking. They have developed a policy that includes encouraging national legislation to meet the obligations of international conventions and directives and policing of behaviors of its individuals but nothing to radical. The following information sets out NATO policy on human trafficking:

This policy is developed by NATO in consultation with its Partners and nations contributing forces to NATO-led operations. Allies re-affirm their commitment to ratification, acceptance or approval of the UN Convention and relevant Protocol and agree:

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<sup>195</sup> European Commission, COM (2010)95 Final. 2010/0065/ (COD). Proposal for a Directive of the European Parliament And of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA (p. 10)

<sup>196</sup> Ibid., 11, para. 8.

- to review national legislation and report on national efforts to meet obligations associated with the UN Convention and its Protocol in accordance with the relevant decisions taken by the Parties to those treaties;
- to encourage all nations contributing forces to NATO- led operations to ratify, accept or approve the UN Convention Against Organized Crime and relevant Protocol and adhere to the OSCE Code of Conduct;
- that this policy is aimed at securing standards of individual behavior;
- that all personnel taking part in NATO led-operations should receive appropriate training to make them aware of the problem of trafficking and how this modern day slave trade impacts on human rights, stability and security, as well as being informed of their own responsibilities and duties and the respective responsibilities of International Organizations in this field;
- in the conduct of operations, to continue efforts, within their competence and respective mandates, to provide support to responsible authorities in the host country in their efforts to combat trafficking in human beings;
- to incorporate contractual provisions that prohibit contractors from engaging in trafficking in human beings or facilitating it and impose penalties on contractors who fail to fulfill their obligations in this regard; and
- to evaluate implementation of their efforts as part of the ongoing reviews carried out by the competent authorities.<sup>197</sup>

Much of NATO's policy on human trafficking points to the training of its personnel and making sure that they do not contribute to the demand side of human trafficking, specifically the sex industry. It also concentrates on the conduct of troops and civilians in NATO-led missions and the need for them to act appropriately. Friesendorf argues that "in Kosovo and Bosnia, the presence of tens of thousands of peacekeepers and other international staff has exacerbated human trafficking. The

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<sup>197</sup> NATO. (2004). NATO policy on combating trafficking in human beings, par. 4, NATO Istanbul Summit, <http://www.nato.int/docu/comm/2004/06-istanbul/docu-traffic.htm>

primary reason is that some ‘internationals’ have fueled the demand for commercial sexual services, and that some of the women providing these services have been trafficked. The response of countries contributing personnel for NATO and United Nations operations has initially been one of neglect and denial.”<sup>198</sup> As pointed out in both the United Kingdom and France, training has now been being given to its allotted peacekeepers since 2008 to help combat their contribution to providing the demand for human trafficking and sexual exploitation based on the experiences of these peacekeepers and the recommendations of countries involved with peacekeeping.

Since many nations in NATO are not equipped with military resources or the ability to fight extended operations, a push could be made to have consultants trained to help combat human trafficking. Most centers set up by the IOM are run by NGOs whose training is done by the IOM and Western embassies.<sup>199</sup> The IOM is also involved in so-called capacity-building activities, whose purpose is to enable source countries to better address trafficking challenges by themselves. This includes training social workers, journalists, civil servants, and members of government agencies as well as organizing workshops and roundtables bringing together various state and civil actors to increase the level of awareness surrounding trafficking.<sup>200</sup> The training needed for these NGOs and agencies could be NATO-led in countries where consultants or peacekeepers are located. Right now, human trafficking is not a central issue for NATO although NATO does states that: With reference to the definition of trafficking in human beings, NATO reaffirms its adherence to and compliance with the provisions of Article III of the “UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.”<sup>201</sup>

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<sup>198</sup> Friesendorf, 382.

<sup>199</sup> Nieuwenhuys, & Pécoud, 1681–82.

<sup>200</sup> Ibid., 1681.

<sup>201</sup> NATO. (2004). NATO policy on combating trafficking in human beings, par. 4, NATO Istanbul Summit, <http://www.nato.int/docu/comm/2004/06-istanbul/docu-traffic.htm>. Appendix 3. par. 5

One problem with the struggle against human trafficking is the reluctance of victims to self-identify. Their reasons include denial of the situation (not perceiving themselves to be victims), fear of law enforcement (based on past experiences or what they had been told by traffickers), fear of retaliation by the traffickers against the victim or his or her family members, shame, love of the trafficker, cultural norms, language barriers, difficulty in expressing complex emotions or psychological trauma, or a lack of knowledge as to whom to identify oneself as a victim. Consequently, identification of victims falls to law enforcement.<sup>202</sup> Training these ill-equipped law enforcement agencies could be a possible role that NATO can help fill in Europe.

The NATO case is presented because of their presence in source and destination countries and the window of opportunity that they have to positively affect the outcome of combating human trafficking. For now, their policy of training and informing its peacekeepers about the perils of human trafficking are appreciated but it seems like much more could be done.

## **E. CONCLUSION**

The involvement of the institutions in Europe in combating human trafficking are varied from institution to institution. The Council of Europe and the OSCE view human trafficking as a much more human rights associated problem and push for the protection of victims. The EU, while including the inputs of the OSCE and the Council of Europe in its decisions, has remained focused on the criminal aspect of human trafficking and its detriments to state security. NATO has remained almost indifferent towards human trafficking, only reporting that its member troops need to recognize and not contribute to human trafficking while operating in its deployment zones.

For the United Kingdom and France, these institutions have represented a macro view of the initiatives that are going on in their own countries. Issues with the criminalization of human trafficking and instituting laws that produce harsh penalties exist. Issue with of victim protection and the advocacy of human rights also remain.

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<sup>202</sup> Stolz, B..2010. Human trafficking: Policy. *Criminology & Public Policy* 9, no. 2, (May 1): 267

Through these institutions, both the United Kingdom and France are able to push a transnational agenda that helps combat human trafficking but ultimately leads to greater security within their own borders.

The importance of all of these institutions relates to the fact that the combat of human trafficking must be approached from every angle to include: victim protection, increased penalties and prosecution, inter-agency cooperation on every level, and intelligence sharing.

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## VI. CONCLUSION

Human trafficking emerged as a problem that violated human rights in the early 1990s. Since that time, it was associated more and more with organized crime and the criminal nature of the problem solidified. Common definitions and recognition of what constituted human trafficking were some of the early problems associated with combating human trafficking. Through the late 1990s and 2000s, different approaches were taken to combat human trafficking many times preferring one over the other. By looking at the cases of the United Kingdom and France and by also looking at the institutions that they play a role in, this study hoped to prove that the convergence of a human rights based approach and a criminalization approach were the best practices to successfully combat human trafficking. By using these two approaches, countries will be best equipped to handle the problems associated with human trafficking.

As Fijnaut and Paoli pointed out, significant differences between legal and administrative systems and regulations in the various countries make a uniform policy towards organized crime difficult, if not impossible.<sup>203</sup> This difference in systems was not the only cause of confusion about human trafficking. R. Staring reasoned that estimates of the numbers of humans trafficked were very rough because of the lack of centralized registration of human trafficking victims and offenders and the means that different institutions used to define and track these figures.<sup>204</sup> Since the issues have been recognized, France and the United Kingdom have made efforts to better coordinate their policies with other countries to increase uniformity and to make data collection easier. Part of that included making the penalties for prosecuting human trafficking stiff enough that they were the preferred method for prosecuting offenders.

Multiple reasons for the rise of human trafficking along with multiple needs to combat human trafficking were the main issues being addressed in the United Nations Palermo Convention. Over the past decade in accordance with the United Nations

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<sup>203</sup> Fijnaut and Paoli, 3.

<sup>204</sup> Fijnaut and Paoli, 168.



Palermo Convention and the evolution of the combat of human trafficking within different institutions, three different levels of handling human trafficking have emerged: Prosecution of offenders, protection of victims, and prevention. These policies developed over the last decade are both repressive, meaning they are aimed at attacking the criminal nature of human trafficking, as well as preventative, meaning that there is constant focus on the various circumstances facilitating organized crime instead of focusing solely on perpetrators.<sup>205</sup> This evolution of policy happened because states and institutions were willingly to accept guidance and lessons learned from other actors and because they recognized the need for baseline definitions and policies to combat human trafficking.

After the Palermo Convention, the United Kingdom and France held a summit to discuss the implications of human trafficking and illegal immigration. In this summit, both agreed to the shared EU problem and the necessity to combat the problem effectively.<sup>206</sup> During this summit, they discussed the criminal nature of human trafficking and its relation to drugs, prostitution, and pornography. The French commented on their role in the EU during the French chaired presidency and the progress that was made in the EU towards human trafficking. This foreshadowed their decade long focus and success through international institutions. They called for the increase of joint operation between EU countries against the criminals involved and tougher EU-wide penalties on traffickers.<sup>207</sup> From this summit forth, both France and the United Kingdom have developed policies based on internal and external recommendations to combat human trafficking by protecting victims, prosecuting criminals, and working on prevention programs with source countries.

As discussed in Chapter III, the United Kingdom had problems with policing human trafficking outside of London in their early efforts for combating human trafficking. Over the past ten years, more centralized agencies have emerged to help coordinate efforts and intelligence, such as the SOCA.

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<sup>205</sup> Fijnaut and Paoli, 168.

<sup>206</sup> “Franco-British summit conclusions,” French Embassy, accessed November 30, 2011, <http://www.ambafrance-uk.org/Franco-British-summit-conclusions.html>.

<sup>207</sup> Ibid.

In France, victim protection was the more criticized aspect of their policies and legislation. France has slowly developed a system that allows for better victim protection by providing resources to a broader system of victim protection. The different European security institutions have provided human rights and victim protection guidance along with coordinating efforts to protect state security. While helping to shape national policy, they were also influenced by these same nations and what those nations viewed as successful policies

The efforts of local, national, and international groups to combat human trafficking recognize the need to converge the two approaches to combating human trafficking. There is no one silver bullet to end human trafficking. In 2004, Becucci argued that defeating human trafficking would be difficult because of the many variables involved.<sup>208</sup> His argument was based on the fragmentation of criminal actors involved, the lack of a single network being involved in the entire cycle of human trafficking up to the exploitation, and the greater police controls and increased pressure by governments forcing sexual exploitation indoors.<sup>209</sup> This argument was heeded by the anti-trafficking movement and actions by organizations have reflected the need to attack human trafficking on multiple levels.

Focus has swung back and forth between viewing human trafficking as a security threat and a human rights violation. Examples such as this one in 2004 where Nelen and Huisman emphasized that civil and administrative instruments and policies should not be regarded as ‘alternatives’ to large scale penal-action, but rather as complementary or integrated approaches to organized crime describe the need for a convergence of the approaches to combating human trafficking.<sup>210</sup>

Most recently, the movement is recognized as needing to include all aspects of approaches to combat human trafficking but always maintaining victim protection and their rights as the most important piece. Luis C’deBaca states that “around the world,

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<sup>208</sup> Fijnaut and Paoli, 63.

<sup>209</sup> Ibid.

<sup>210</sup> Ibid., 3.

new partnerships between police and NGOs have resulted in the prosecution of thousands of trafficking cases, and a new focus on victims' rights has resulted in assistance for many thousands of victims."<sup>211</sup> This dual strategy of international cooperation of law enforcement powers complementing administrative powers has defined the growth of both national and international efforts to combat human trafficking.<sup>212</sup> The United Kingdom and France helped show that even the most developed of nations required changes to bring their legislation and policies in line with what is needed to properly combat human trafficking.

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<sup>211</sup> Ambassador Luis CdeBaca. U.S. State Department 2009 Trafficking in Persons Report

<sup>212</sup> Fijnaut and Paoli, 3.

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